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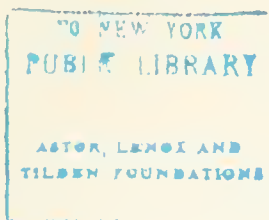
LECTURES *on the*
UNITED STATES

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SECTION VI

THE UNITED STATES
OF AMERICA

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LEGISLATION

OF THE CONGRESS

OF THE UNITED STATES

LADY WASHINGTON'S RECEPTION

From the original painting by D. H. Huntington, P. N. A.

LADY WASHINGTON'S RECEPTION
from the original painting by J. M. H. Huntington, N. Y.

LECTURES
ON THE
GROWTH AND DEVELOPMENT
OF THE
UNITED STATES



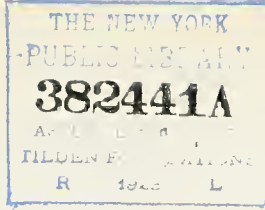
Edited by EDWIN WILEY, M.A., Ph.D.
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SERIES FIVE

LECTURE SEVENTEEN (Part 2)

The Revolutionary Era, 1764—1783

(Continued)

17. The Southern Campaign and the Establishment of Independence (Part 2)

CHAPTER XXXI.

1781.

CORNWALLIS SURRENDERS AT YORKTOWN.

Operations of Cornwallis — Lafayette in Virginia — Tarleton's attempt to capture Thomas Jefferson — Baron Steuben retreats before Simcoe — Wayne and Lafayette attack Cornwallis — The latter establishes headquarters at Yorktown — Reinforcements received from France — Interview between Washington and the French commanders — The former meditates attack upon New York — March toward the South begun — Allied armies besiege Yorktown — Arnold burns New London — Attack on British works at Yorktown — The surrender — Lafayette's return to France — Border warfare.

Meanwhile Lord Cornwallis had gone to Petersburg, Virginia, supposing that Lord Rawdon would be able to check the advance of General Greene in Carolina. Upon his arrival at Petersburg, Cornwallis learned of the death of General Phillips and here also he received a reinforcement of 1,800 troops sent by Sir Henry Clinton. Cornwallis now thought himself strong enough not only to check the Americans, but also to decisively defeat them, and in a spirit of exultation wrote to the home government regarding Lafayette, saying that "the boy cannot escape me."* At this time Lafayette's army consisted of but 1,200 Continentals and 2,000 militia.† In order to dislodge Lafayette from his position at Richmond, Cornwallis proceeded from Petersburg to the James River, and on May 27 forced Lafayette to evacuate Richmond.‡ Corn-

wallis then marched through Hanover County and crossed the South Anne River, his movements being constantly watched by Lafayette, who awaited a favorable opportunity to strike a sharp blow on the British army. Cornwallis had planned to surprise Lafayette while on the same side of the James River as himself, but his plan was frustrated by an American spy who had been sent to the British camp by Lafayette. This spy was Charles Morgan, a Jersey soldier, who was sent to give Cornwallis false information as to the strength of Lafayette's army, and so successful was he in his mission that Cornwallis abandoned his plan. Morgan safely escaped from the British camp, taking a number of soldiers with him. For this service Morgan refused to receive any compensation.*

At this time Cornwallis received information that a number of the

* Fiske, *American Revolution*, vol. ii., p. 270; Tower, *Marquis de LaFayette*, vol. ii., p. 320.

† Johnston, *Yorktown Campaign*, p. 55.

‡ Carrington, *Battles of the Revolution*, p. 599; and for details of the movements leading up to

this, see Tower, *Marquis de LaFayette*, vol. ii., pp. 308-320.

* Gordon, *American Revolution*, vol. iii., p. 207; Thacher, *Military Journal*, pp. 290-291.

principal men of Virginia had assembled in convention at Charlottesville to regulate the affairs of the province, and that Stenben with a small detachment was lying at Point of Fork, situated at the junction of the James and Rivana rivers, where also was a magazine of arms and ammunition. Cornwallis thereupon determined to capture both the convention at Charlottesville and Steuben's detachment, delegating Tarleton to attempt the first exploit and Simcoe the latter. Both expeditions were in the main successful. Tarleton succeeded in capturing a number of deputies and confiscated a considerable quantity of munitions of war and provisions. But the chief person whom Cornwallis had desired to capture—Thomas Jefferson—had been warned of the approach of the British and had put himself out of their reach.* Before attempting to make his escape, however, he hid his papers, plate, and a large quantity of arms and ammunition.† Simcoe also succeeded in putting Baron Steuben to flight. The latter, supposing he was attacked by the entire British force, considered it best not to risk total annihilation, and hastily retreated.‡

When Tarleton and Simcoe returned from these expeditions, Cornwallis marched toward Richmond, June 17, and a short time after went to Williamsburg, the capital of the State.* His troops, however, were experiencing great difficulty in securing provisions for the army, as Lafayette's watchfulness rendered it impossible for the light troops to make expeditions into the country for supplies. Lafayette had now been joined by Baron Steuben, and had also received a reinforcement of Pennsylvania troops under General Wayne, which brought his army up to about 5,000 men. Thus he was in a position to watch the British movements and to cut off whatever parties of light troops were dispatched into the country for supplies.† At about the same time, Cornwallis was instructed by Sir Henry Clinton to send a portion of his troops to New York. Clinton had been advised of the approach of the allies in that section of the country, and anticipated that he would be attacked in overwhelming force.‡ Because of the insufficiency of his force, he feared that New York, Staten Island, and Long Island would fall in rapid succession

* Ford's ed. of *Jefferson's Writings*, vol. ii., pp. 392-395, 405-409, 422-423, vol. viii., pp. 363-374; Fiske, *American Revolution*, vol. ii., p. 271; Lossing, *Field-Book of the Revolution*, vol. ii., pp. 342-343; Morse, *Thomas Jefferson*, pp. 64-67.

† Parton, *Life of Thomas Jefferson*, pp. 250-253; Carrington, *Battles of the Revolution*, pp. 600-601.

‡ Carrington, pp. 601-602; Tower, *Marquis de*

LaFayette, vol. ii., pp. 330-334; Lossing, *Field-Book of the Revolution*, vol. ii., pp. 258-260, 343.

* Lossing, *Field-Book of the Revolution*, vol. ii., p. 257.

† On the various movements, see Tower, *Marquis de LaFayette*, vol. ii., p. 334 et seq.

‡ Bancroft, vol. v., pp. 510-511; Fisher, *Struggle for American Independence*, vol. ii., pp. 465-466.

before the onslaught of the enemy. In obedience to orders, therefore, Cornwallis early in June marched his troops toward the banks of the James River. Having passed this, it was his intention to go to Portsmouth for the purpose of there embarking the troops intended for New York. But Lafayette followed him so closely that he was compelled to halt on the left bank of the river, and to take up a strong position so as to check Lafayette's advance, and at the same time to allow his artillery, ammunition, baggage, etc., to pass to the other side. He therefore established his camp along the river, with a pond covering his right, and his left and centre covered by swamps.*

Meanwhile General Wayne with the American van-guard had approached very close to the British army. The latter sent spies among the Americans to inform them that the bulk of the royal army had already crossed the river, and that only a small rear-guard remained upon the left bank of the river, this rear-guard consisting of the British legion and some few detachments of infantry. It is evident that the American general was completely deceived by this misinformation, for a rapid movement was immediately

directed against the royal troops.* The Pennsylvania troops under General Wayne had passed the swamp, had attacked the left wing of the British, and in spite of the superiority of the enemy, had pushed them back some distance. But the English passed the pond, advanced against the left wing, consisting entirely of militia, and without difficulty dispersed it, then advancing to attack Wayne's left flank. At the same time they extended their own left behind the swamp and turned Wayne's right, and were in a fair way toward completely surrounding it. Lafayette, however, perceived this movement and ordered Wayne to fall back; but the latter, in executing this movement, was forced to leave two cannon in the possession of the British. In order to collect his scattered troops, Lafayette remained for some time at Greene Springs, while Cornwallis re-entered his entrenchments. The approach of night prevented any pursuit of the Americans by the British.†

Before sunrise of the next morning, however, Cornwallis sent a body of cavalry upon the road taken by Lafayette with orders to

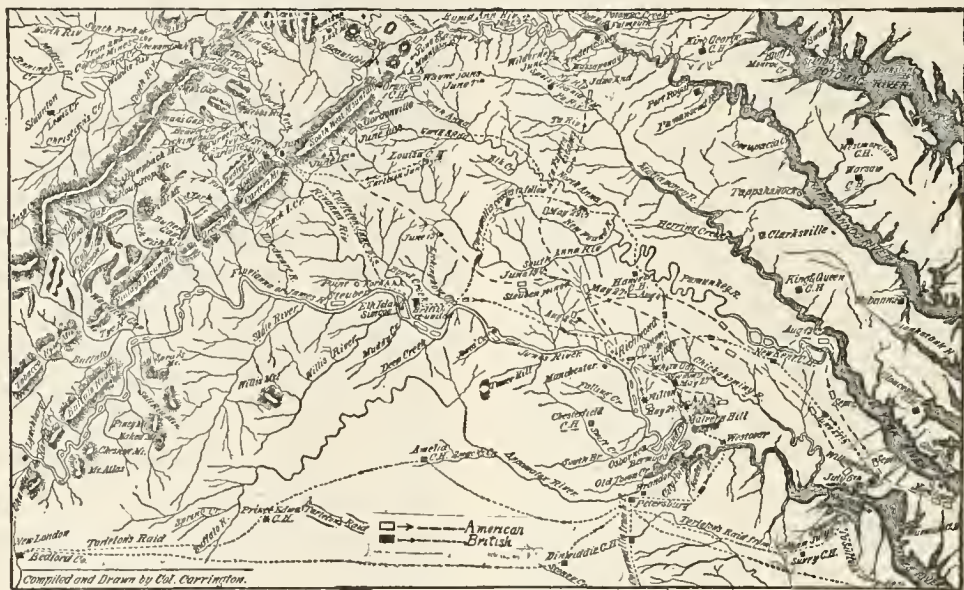
* See Lafayette's letter in Sparks, *Correspondence of the Revolution*, vol. iii., pp. 360-366.

† Stillé, *Wayne and the Pennsylvania Line*, pp. 268-276; Tower, *Marquis de LaFayette*, vol. ii., pp. 357-369; Carrington, *Battles of the Revolution*, pp. 608-609; Fisher, *Struggle for American Independence*, vol. ii., p. 466; Lossing, *Field Book of the Revolution*, vol. ii., pp. 259-262; Johnston, *Yorktown Campaign*, p. 60 *et seq.*; Lowell, *Hessians in the Revolution*, p. 275.

* Clinton's orders, however, were soon afterward countermanded, because the ministry at home thought Cornwallis had an excellent chance of recovering the South and did not wish to cripple him by withdrawing troops.

overtake the Americans and harass them as much as possible. The only damage inflicted on the Americans was the capture of a few soldiers, though undoubtedly had Cornwallis advanced with his whole force he would have been able to cut off Lafayette entirely.* But Cornwallis was exceedingly anxious to reach Portsmouth so that he might send the

ceeded to embark the troops. At this time he received new instructions from Clinton directing him to retain the troops, to return to Williamsburg, and then to establish headquarters at Point Comfort, so that he might have a safe retreat in case of necessity.* This new plan had been forced on Clinton by two events. He had received a reinforcement of 3,000



Lafayette's Operations in Virginia.

troops requested by Clinton, and accordingly, leaving Lafayette to his own designs, he hastened toward Portsmouth. Upon a careful examination of the place, he became convinced that the position was unsuitable to furthering the ulterior designs of Clinton; nevertheless, he pro-

posed to embark the troops. At this time he received new instructions from Clinton directing him to retain the troops, to return to Williamsburg, and then to establish headquarters at Point Comfort, so that he might have a safe retreat in case of necessity.* This new plan had been forced on Clinton by two events. He had received a reinforcement of 3,000

* See Gordon, *American Revolution*, vol. iv., pp. 107, 118, 185 (ed. 1788); Tower, *LaFayette*, vol. ii., chap. xxvi.; Lee's *Memoirs*, vol. ii., pp. 222-230, 234; Tarleton, *Campaigns*, pp. 353-356, 400-403.

* Tower, *Marquis de LaFayette*, vol. ii., pp. 407-408.

their plans of fortifying it.* Nevertheless, as it was considered advisable to have some fixed basis of operations, Lord Cornwallis on August 1 resolved to repossess the James River and to establish headquarters at Yorktown.†

This village was situated on the right bank of the York River, and opposite lay a small town called Gloucester, built upon a point of land projecting into the river from the left side. At this point the river was very deep and capable of receiving and harboring the largest vessels of war. For a mile in front of Yorktown lay a strip of open level ground, in advance of which was a wood, its left extending to the river and its right being bordered by a creek. On the right of Yorktown flowed a marshy stream. By August 22 Cornwallis had established himself in entrenchments at this place, while Lafayette occupied a position from which he could watch the British movements and prevent foraging in the country.‡

Meanwhile the French court had closely watched the turn of affairs in America, and believing that the time had now come for decisive action, sent a naval force to American waters sufficient to render the French

fleet there vastly superior to the British. They also sent sufficient troops to enable Washington to completely overwhelm the British army. In March, 1781, therefore, François Jean Paul, Count de Grasse, set sail from Brest with 25 ships of the line, several thousand land troops, and a large convoy, the whole fleet numbering about 200 vessels.* A small portion of this force was destined for the East Indies, but de Grasse with the greater part of it sailed for Martinique. The British fleet then in the West Indies, though weakened by the departure of a squadron to protect the ships carrying to England the booty captured at St. Eustatius, attempted to intercept the French fleet under De Grasse; but before the two fleets met, the French had been reinforced by eight ships of the line and one of 50 guns, which had previously been at Martinique and San Domingo. Thus the French had a decided superiority, and the English deemed it unwise to attack. After completing his mission in the Indies, De Grasse set sail for America early in August.

Meanwhile, on August 22, Washington and Knox had gone to Weathersfield, Conn., for the purpose of consulting with Rochambeau regarding plans for besieging New York.† Relying upon the arrival of

* Fisher, *Struggle for American Independence*, vol. ii., p. 469.

† *Ibid.*, p. 470. See also Lafayette's letter in Sparks, *Correspondence of the Revolution*, vol. iii., pp. 366-368.

‡ See his letter of August 21 to Washington in Sparks, *Correspondence of the Revolution*, vol. iii., pp. 389-392.

* For details concerning the efforts to secure this aid, see Tower, *Marquis de Lafayette*, vol. ii., chap. xxiv.

† Fisher, *Struggle for American Independence*,

De Grasse, Washington earnestly called for troops from the New England States, hoping that the combined forces would have no difficulty in capturing that city. In June the French troops began to march from Rhode Island, and early in the following month effected a junction with the American army. At the same time, Washington moved his army from their winter quarters at Peekskill to the vicinity of Kingsbridge.* Lincoln fell down the Hudson with a detachment of boats and occupied the position where Fort Independence formerly stood. All the British outposts were now called in to the main encampment at New York.† Washington hoped to begin operations against New York at the latest toward the end of July. He ordered the construction of enough flat-bottom boats to transport 5,000 troops down the Hudson, and had caused ovens to be erected opposite Staten Island for the use of the French troops. He was disappointed, however, in the number of troops received from the New England States; whereas he had expected 12,000, he could hardly muster more than 5,000, a number by no means adequate to carry out the projected siege. He

also learned that De Grasse could not remain on the American coast longer than October 15,* and that instead of coming to the north, his destination was the Chesapeake. Washington therefore suddenly changed his plans, and instead of attacking Clinton at New York, determined to completely surround and capture Cornwallis in Virginia.†

While the plans for the attack on New York were being perfected, the British had somehow captured a letter from Washington giving all the details and particulars concerning the intended operations against the city.‡ But even after Washington's plans were changed, Clinton could not be persuaded that Washington really had designs on Cornwallis, thinking that any movement toward the South was merely a subterfuge to make him unwary in his defence of New York. Therefore, instead of attempting to prevent the passage of the French and American troops to the South, Clinton contented himself with strengthening the defences of New York against the expected attack. Not until the opportunity of striking at the allied armies had passed, did Clinton become convinced that the capture of Cornwallis was the object of the combined forces. Then it was too late for him to make

vol. ii., pp. 476-477; Tower, *Marquis de LaFayette*, vol. ii., p. 381 *et seq.*; Irving, *Life of Washington*, vol. iv., p. 318 *et seq.*; Sparks, *Life of Washington*, p. 332 *et seq.*

* Heath's *Memoirs*, p. 269 *et seq.* (Abbatt's ed.).

† Thacher, *Military Journal*, p. 257; Irving, *Life of Washington*, vol. iv., pp. 322-323; Tower, *Marquis de LaFayette*, vol. ii., pp. 393-394.

* See his letter quoted in Tower, *Marquis de LaFayette*, vol. ii., pp. 402-403.

† Fiske, *American Revolution*, vol. ii., pp. 274-276.

‡ Fisher, *Struggle for American Independence*, vol. ii., p. 478.

a movement by land, for General Heath had been left in the vicinity to watch Clinton, and if possible to prevent his following the allied forces, or at least to delay him until they had had time to reach Virginia.* Some years later, Washington replied as follows to inquiries regarding his movement:

"A combined operation of the land and naval forces of France in America, for the year 1781, was preconcerted the year before; that the point of attack was not absolutely agreed upon; because it could not be foreknown where the enemy would be most susceptible of impression; and, because we (having the command of the water, with sufficient means of conveyance) could transport ourselves to any spot, with the greatest celerity; that it was determined by me, nearly twelve months beforehand, at all hazards, to give out, and cause it to be believed by the highest military, as well as civil officers, that New York was the destined place of attack, for the important purpose of inducing the eastern and middle states, to make greater exertions in furnishing specific supplies, than they otherwise would have done, as well as for the interesting purpose of rendering the enemy less prepared elsewhere; that, by these means, and these alone, artillery, boats, stores, and provisions, were in seasonable preparation, to move with the utmost rapidity, to any part of the continent; for the difficulty consisted more in providing, than knowing how to apply the military apparatus; that, before the arrival of the Count de Grasse, it was the fixed determination, to *strike the enemy in the most vulnerable quarter*, so as to insure success with moral certainty, as our affairs were then in the most ruinous train imaginable; that New York was thought to be beyond our effort, and consequently, that the only hesitation that remained was between an attack upon the British army in Virginia, and that in Charleston; and finally, that, by the intervention of several communications, and some incidents, which cannot be detailed in a letter, the hostile post in Virginia, from being a provisional and strongly expected,

became *the definitive and certain object* of the campaign.

"I only add, that it never was in contemplation to attack New York, unless the garrison should first have been so far degarnished, to carry on the southern operations, as to render our success in the siege of that place as infallible as any future military event can ever be made. For I repeat it, and dwell upon it again, some splendid advantage, whether upon a larger or smaller scale was almost immaterial, was so essentially necessary, to revive the expiring hopes and languid exertions of the country, at the crisis in question, that I never would have consented to embark in any enterprise, wherein, from the most rational plan and accurate calculations, the favorable issue should not have appeared to my view as a ray of light. The failure of an attempt against the posts of the enemy, could, in no other possible situation during the war, have been so fatal to our cause.

"That much trouble was taken, and finesse used, to misguide and bewilder Sir Henry Clinton, in regard to the real object, by fictitious communications, as well as by making a deceptive provision of ovens, forage, and boats in his neighborhood, is certain; nor were less pains taken to deceive our own army; for I had always conceived, where the imposition does not completely take place at home, it would never sufficiently succeed abroad."

Following this plan, therefore, Washington broke up the camp at New Windsor and on July 21 reached Kingsbridge.* Here he was joined by the French troops to the number of 5,000 under Rochambeau. The combined forces then made several movements calculated to deceive the British into believing that the object of the movement was to capture New York. On August 19 a body of troops was sent across the Hudson at Dobb's Ferry, ostensibly to establish a permanent post in that vicinity. On the next two days the main body of the

* Heath's *Memoirs*, pp. 175-179 (Abbatt's ed.); Sparks' ed. of Washington's *Writings*, vol. viii., p. 139.

* Sparks, *Life of Washington*, p. 335.

American army passed the river at King's Ferry, while the French made a longer circuit and did not complete the passage until the 25th. For some time Washington continued the march in such a direction that the British would think his object was New York. But when it became impossible further to conceal his intentions, Washington ordered a rapid advance toward the South. In this way Clinton was not aware of his real intention until the main part of the army had crossed the Delaware.* On August 30 the combined forces entered Philadelphia and were received there with demonstrations of great joy. Toward the end of August De Grasse entered the Capes and was met there by an officer sent by Lafayette to give him full information regarding the condition of affairs in Virginia and the plans made for operating against the British army.

After Cornwallis reached Yorktown, he proceeded to erect strong fortifications. Lafayette, being encamped on the James River, was in a position to prevent his passage into North Carolina, while the allied

forces on their way south could prevent his escape to the northward. De Grasse then sent four ships of the line and some frigates to block the entrance of the York River, so that Cornwallis could not escape in that direction, and the French troops brought by De Grasse under the Marquis de St. Simon were sent to Lafayette's camp. The rest of the fleet remained at the entrance of the bay on the lookout for the British squadron.*

Having made all the necessary arrangements for transporting the northern army to Yorktown, Washington, accompanied by Rochambeau, proceeded ahead of the troops, and on September 14 joined Lafayette at Williamsburg.† As Cornwallis was now lying behind very strong works, it was seen that without artillery he could not be captured save by a regular siege. It was expected that a French squadron under command of Count de Barras, which had sailed from Rhode Island, would bring the needed artillery; but this did not arrive for some time, as De Barras had gone far out to sea in order to avoid the British fleet which was known to be in that vicinity. On September 5, while awaiting the arrival of De Barras, De Grasse spied off the coast a British fleet of 19 vessels under Admiral Graves. He there-

*Baneroft, vol. v., p. 516; Thacher, *Military Journal*, p. 260 *et seq.*; Carrington, *Battles of the Revolution*, p. 617 *et seq.*; Irving, *Life of Washington*, vol. iv., pp. 325-329; 354 *et seq.*; Gordon, *American Revolution*, vol. iv., pp. 119-127; Ford's ed. of *Washington's Writings*, vol. ix., pp. 343-347; Tarleton, *Campaigns*, pp. 416-418.

†Fiske, *American Revolution*, vol. ii., pp. 277-278; Oberholtzer, *Life of Morris*, p. 82.

‡Tower, *Marquis de LaFayette*, vol. ii., p. 420.

*Tower, *Marquis de LaFayette*, vol. ii., p. 428 *et seq.*; Lossing, *Field-Book of the Revolution*, vol. ii., p. 305.

†Tower, p. 444.

upon sailed out to engage the British fleet and to draw them off so that in the meantime De Barras could pass into the bay. This project was carried to a successful conclusion, and it did not become necessary to open up a general engagement with the British fleet.*

When Clinton finally became aware of the intention of the allies in the north, he attempted to create a diversion by attacking some city in his immediate vicinity. In September, therefore, he sent Benedict Arnold against New London, Conn. Crossing the Sound, Arnold landed his troops in two divisions at the mouth of the Thames. One of these divisions marched toward New London, took Fort Trumbull, and then entered the town; while the other passed up the east side of the river to attack Fort Griswold. This fort was defended by a small garrison of militia under Colonel William Ledyard, and though they made a resolute resistance, they were finally overpowered by the superior British force. Upon surrendering, Colonel Ledyard was brutally killed by the commanding British general. Upon the capture of the fort, the garrison was indiscriminately murdered, as were also many of the inhabitants, nearly 100 being slain.

Meanwhile New London had been burned to the ground and a number of richly laden vessels fell into Arnold's hands.* The Nero-like Arnold gazed upon the burning of New London with great exultation, and shortly after his return to New York completed his audacious villainy by reporting that the prisoners slaughtered after the surrender had been found dead in the fort.†

This expedition, however, did not result in diverting Washington from his purpose as Clinton had expected, and the latter became convinced that he should put forth every effort to send Cornwallis relief. He dispatched a letter in cipher to Cornwallis, saying that he hoped by October 5 to be able to join him with his fleet and armies. Upon receiving this letter, therefore, Cornwallis withdrew his troops from the outer defences and concentrated them within the limits of the town.‡ On September 25 the

* Bancroft, vol. v., p. 517; Fiske, *American Revolution*, vol. ii., pp. 278-279; Stedman, *American War*, vol. ii., pp. 400-402; Fisher, *Struggle for American Independence*, vol. ii., pp. 484-487; Lee's *Memoirs*, vol. ii., pp. 313-320; Gordon, *American Revolution*, vol. iv., pp. 181-184 (ed. 1788); Tower, *Marquis de LaFayette*, pp. 437-440.

* Thacher, *Military Journal*, pp. 267-268; Arnold's report in Arnold, *Life of Arnold*, p. 348 *et seq.*; Carrington, *Battles of the Revolution*, pp. 628-629; Gordon, *American Revolution*, vol. iv., p. 178 (ed. 1788); Caulkins, *History of New London*, pp. 545-572; Johnston, *Connecticut*, pp. 312-314; Trumbull's letter of September 15 to Washington, in Sparks, *Correspondence of the Revolution*, vol. iii., pp. 403-405; Heath's *Memoirs*, pp. 282-285 (Abbatt's ed.); Lossing, *Field-Book of the Revolution*, vol. i., pp. 610-613.

† In December, 1781, Arnold left New York and proceeded to England. Looked upon with scorn and contempt, he sank into obscurity, ending his unhappy career at London, June 14, 1801. On his career in foreign parts, see Arnold, *Life of Arnold*, p. 355 *et seq.*

‡ See the dispatches quoted in Carrington, *Battles of the Revolution*, pp. 631-633. See also

allied troops to the number of 11,000 reached Williamsburg, and three days later began the march toward Yorktown. At the same time the allied army encamped before Yorktown, the combined French fleets anchored at the mouth of the river, so as to prevent the escape of the British by sea, as well as to prevent any supplies or reinforcements reaching them from that direction. Lauzun's legion together with a militia brigade, in all about 4,000 men, under command of General de Choisy and General George Weedon, took a position at Gloucester Point, and shut off escape on that side.*

On September 30 Yorktown was invested. The left wing of the besieging troops was composed of the French, extending from the river above the town to a morass in front of it; the right wing was composed of the Americans who occupied the ground below the town between the morass and the river. On the extreme left of the besieging army were the West India regiments under St. Simon, and next to them were the French light infantry regiments under Antoine Charles du Houx, Baron de Vioménil, under whom were the Colonels Counts William Deuxponts, and Adam Philip De Custine. The French artillery occupied the

centre, and on the right across the marsh were the American artillery under Knox, assisted by Colonel John Lamb, Lieutenant-colonels Ebenezer Stevens, Edward Carrington, and Major Sebastian Bauman, the Virginia, Maryland, and Pennsylvania troops under Steuben, the New York, Rhode Island and New Jersey troops under General James Clinton, the light infantry under Lafayette, and the Virginia militia under Governor Thomas Nelson, Jr. General Lincoln's quarters were on the banks of the Wormeley's Creek on the extreme right.*

Until October 6 the American and French troops were occupied in disembarking the artillery and military stores, and in conveying them to the scene of action;† but on that night, the first parallel was begun about 600 yards from the British works.‡ Because the night was dark and rainy, the operations of the besiegers were not discovered and probably not suspected by the besieged until daylight disclosed them in the morning, but by that time the trenches had been so far advanced that the workmen were covered from the fire of the garrison. Three days later the batteries were completed and fire was immediately opened on the town. Thenceforth shot and shell were unceasingly

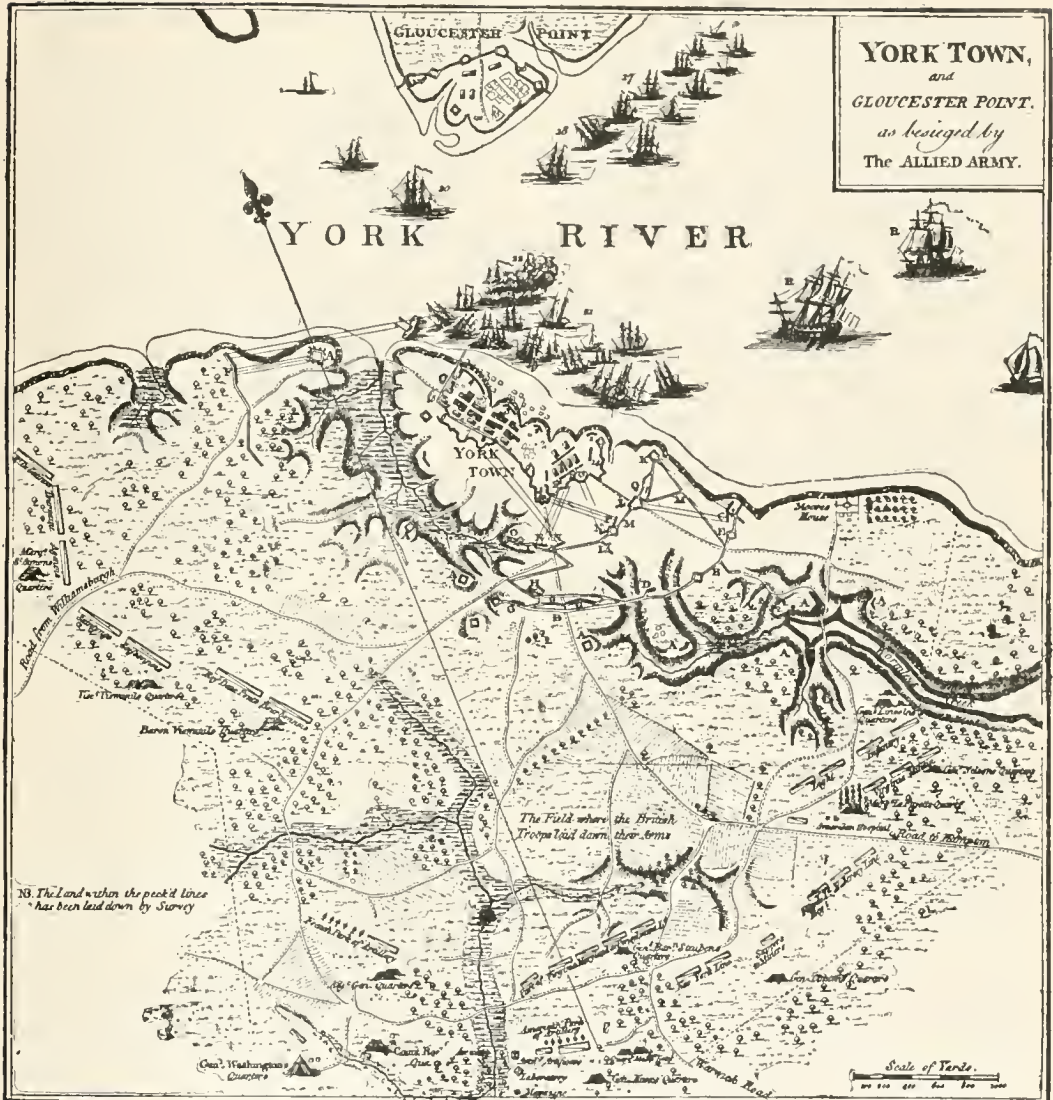
Tower, *Marquis de LaFayette*, vol. ii., pp. 447-448.

* Fisher, *Struggle for American Independence*, vol. ii., p. 494; Lossing, *Field-Book of the Revolution*, vol. ii., p. 308.

* Lossing, *Field-Book of the Revolution*, vol. ii., pp. 309-311.

† *Ibid.*, p. 311. For a statement of the force of artillery, see Brooks, *Life of Knox*, p. 154 *et seq.*

‡ Carrington, *Battles of the Revolution*, pp. 636-637; Brooks, *Life of Knox*, p. 160.



AMERICAN AND FRENCH APPROACHES.—*B.* First parallel. *C.* American battery of three 18 and three 24 pounders, two howitzers and two 10" mortars. *D.* American battery of four 18 pounders. *E.* Bomb battery of four 10" mortars. *F.* French battery of four 12 pounders and 6 mortars and howitzers. *G.* Three French batteries of sixteen pieces—18 and 24 pounders and 9" howitzers. *H.* French bomb battery of six 13" mortars. *I.* Part of second parallel. *K.* Redoubt stormed by Americans. *L.* Bastion redoubt stormed by French. *M.* Remainder of second parallel. *N.* Three French batteries in second parallel—of sixteen pieces—18 and 24 pounders. *O.* French bomb battery designed for ten 13" mortars. In redoubt *K* the Americans opened with two 8" howitzers and two 18 pounders, and in redoubt *I*, with two 10" mortars. *P.* American battery of four 18 pounders. *Q.* American battery designed for seven 18 and three 24 pounders, four howitzers, eight 10" and ten 5½" royal mortars; not mounted when garrison capitulated. *R.* Two French men of war sent to take charge of British marines. **BRITISH FORTIFICATIONS.**—*A.* British outworks. No. 1. Battery of two 6 pounders and one 5½" howitzer. 2. Three 18 pounders. 3. Four 18 and five 9 pounders. 4. Five 18, one 9 and two 6 pounders. 5. One 18 and three 9 pounders. 6. One 18 and four 9 pounders. 7. Two 18 and two 12 pounders. 8. Two 18 and one 9 pounders. 9. Two 18 and two 12 pounders. 10. Three 18, two 12 and one 6 pounder and one 16" mortar. 11. One 24 and two 9 pounders. 12. Two 12 pounders and two 8" howitzers. 13. Two 18 and one 12 pounders. 14. Five 9 pounders. 15. Ten 18 and one 12 pounders. 16. Two batteries of eight guns, different calibers. 17. Part of British shipping. 18. Frigate *Guadaloupe* sunk. Frigate *Poncey*. 20. Sloop of War *Bonetta*. 21. British ships as they appeared sunk. 22. The *Charon*, a 44-gun ship, and two transports set on fire by hot shot.

hurled against the fortifications. The unfinished works on the left of the town were soon demolished by the continuous discharge from the 24 and 18 pounders and the 10 inch mortars, and the guns mounted on these unfinished works were silenced. Some of the shot from the American batteries passed completely over the town and struck the ships in the harbor. The *Charon*, a 44, and several transports were set on fire by the hot shell and entirely destroyed.*

A second parallel between 200 and 300 yards from the British works was now begun,† but the progress of the Americans was much hindered by two redoubts on the left of the British works. Washington therefore determined to capture these by storm, the reduction of one being left to the French, while the other task was committed to the Americans. Lafayette was in command of the American troops and Vioménil in charge of the French detachment. Late in the afternoon of the 14th, the assault was begun. Alexander Hamilton led the advance-guard of the Americans,‡ and Colonel John Laurens at the head of 80 men turned the redoubt. Without firing a gun, the troops

rushed to the assault, and so impetuous was their charge that the redoubt was captured with very inconsiderable loss. Major Campbell and 17 privates were made prisoners.* Much to the credit of the American troops, not an act of barbarity was committed, although at this time information had just been received of the massacre of Fort Griswold. Some state that Lafayette, with Washington's consent, ordered every man in the redoubt to be put to the sword, but this statement was positively contradicted by Colonel Hamilton and Lafayette.†

The French experienced considerable difficulty in capturing the redoubt against which they had marched, as it was defended by a large number of men. Nevertheless, they succeeded in the project, killed 18 of the 120 men defending the redoubt, and captured 42 others. The loss of the French was about 100.‡ Washington was greatly pleased at the conduct of both forces, and in his orders of the following day expressed his approval of the conduct of Vioménil, Lafayette, and the other offi-

* Thacher, *Military Journal*, p. 274; Lossing, *Field-Book of the Revolution*, vol. ii., pp. 311-312; Cooke, *Virginia*, p. 468; Irving, *Life of Washington*, vol. iv., pp. 397-399.

† Lossing, p. 312. Knox and Irving say 300 yards. See Brooks, *Life of Knox*, p. 160; Irving, *Life of Washington*, vol. iv., p. 399.

‡ Johnson, *General Washington*, pp. 257-258; Irving, p. 401.

* Tower, *Marquis de LaFayette*, vol. ii., p. 449 *et seq.*; Carrington, *Battles of the Revolution*, pp. 638-639. See also Lafayette's letter in Sparks, *Correspondence of the Revolution*, vol. iii., pp. 425-427; Thacher, *Military Journal*, p. 275.

† Marshall, *Life of Washington*, vol. iv., p. 486; Hamilton, *Life of Hamilton*, vol. i., chap. xiv.; Tower, *Marquis de LaFayette*, vol. ii., pp. 452-453.

‡ Bancroft, vol. v., p. 521; Thacher, *Military Journal*, p. 276; Ford's ed. of Washington's *Writings*, vol. ix., pp. 380-388.

eers in command of the two detachments.

Cornwallis's situation was now becoming desperate. Clinton had been unable to send the reinforcements as early as he had expected, and informed Cornwallis that they could not leave New York before October 12. It was therefore useless to expect that Cornwallis could hold out until they arrived. He thereupon determined to make a vigorous sortie so as to retard the progress of the American works. Early in the morning of the 16th, a party of British troops under command of Colonel Abercrombie succeeded in capturing a portion of the works in the second parallel, but before any great advantage had been secured, they were driven back.* The batteries of the allied armies now contained nearly 100 pieces of heavy ordnance, and so destructive was their fire that the British works contained scarcely a mounted cannon. Writing to Clinton, Cornwallis said: "My situation now becomes very critical; we dare not show a gun to their old batteries, and I expect that their new ones will open tomorrow morning. * * * The safety of the place is, therefore, so precarious, that I cannot recommend that the fleet and army should run great risk in endeavoring to save us."† So alarming had become his position, that Cornwallis decided to cut his way through the besieging

forces and to set out for New York. He planned to cross the river in the night to Gloucester Point, where a small garrison of the British under command of Tarleton were being watched by the French under De Choisy. Having dispersed this French force, he intended to mount the infantry, and by forced marches to join Clinton. Cornwallis therefore left his baggage and the sick and wounded to the care of the enemy, and embarked his army in three divisions. A part of it had crossed and landed at Gloucester Point; another part were still on the river; while the third division had not embarked, when a sudden and very violent storm arose and drove the boats down the river, so that when day appeared the troops were in a bad way. Discovering the predicament of the British, the besiegers opened up a destructive fire on them and finally compelled them to return to the town.*

Cornwallis now abandoned all hope. He realized that it was impossible any longer to resist the Americans, and that any further operations might result in a large loss of valuable lives. On October 17, therefore, he wrote to General Washington asking a suspension of hostilities for 24 hours so that commissioners might

* Thacher, *Military Journal*, pp. 276-277.

† Irving, *Life of Washington*, vol. iv., p. 404.

* Thacher, *Military Journal*, pp. 277-278; Fisher, *Struggle for American Independence*, vol. ii., pp. 498-499; Johnston, *Yorktown Campaign*, p. 191; Lossing, *Field-Book of the Revolution*, vol. ii., p. 314.

be appointed to discuss terms of capitulation. While Washington in reply expressed his "ardent desire to spare the further effusion of blood," and his willingness to discuss such terms as were admissible, still he could not waste time in fruitless negotiations, and therefore desired that Cornwallis immediately transmit his proposition in writing, for which purpose hostilities would be suspended for two hours only.* Upon receipt of Cornwallis's proposal, it was seen that there would be no difficulty in adjusting the terms of capitulation, and the suspension was continued throughout the night. In the meantime, Washington drew up such articles as he would be willing to grant and transmitted them to Cornwallis with the request that, if these articles were approved, commissioners be appointed at once to draft a capitulation.† Washington insisted, however, that the decision be prompt and the negotiations conducted rapidly. Cornwallis accepted Washington's terms, and on October 19 Yorktown and Gloucester were surrendered to the allied French and American troops.‡

The chief stipulations were as follows: "The troops to be prisoners

of war to Congress, and the naval force to France; the officers to retain their side-arms and private property of every kind, but everything obviously belonging to the inhabitants of the United States, to be subject to be reclaimed; the soldiers to be kept in Virginia, Maryland, and Pennsylvania, and to be supplied with the same rations as are allowed the soldiers in the service of Congress; a proportion of the officers to march into the country with the prisoners, the rest to be allowed to proceed on parole to Europe, to New York, or to any other American maritime post in possession of the British." Washington, however, refused to allow the British the honor of marching out with colors flying, treating Cornwallis as General Lincoln had been treated at Charleston. Lincoln was also appointed to receive the submission of the British troops in precisely the same manner as his own submission had been conducted about a year and a half previously.* Fiske states that the British band played a

* See the letters in Carrington, *Battles of the Revolution*, p. 641; Tower, *Marquis de LaFayette*, vol. ii., p. 454.

† Irving, *Life of Washington*, vol. iv., pp. 406-407.

‡ Sparks' edition of Washington's *Writings*, vol. viii., pp. 530-536; Lossing, *Field-Book of the Revolution*, vol. ii., p. 315 *et seq.*

* Dr. Thacher, in his *Military Journal*, pp. 278-281, gives a very interesting account of the circumstances connected with this eventful day. Lord Cornwallis, on the plea of indisposition, did not show himself on this occasion, General O'Hara acting as his representative. See also Irving, *Life of Washington*, vol. iv., p. 409 *et seq.* Thacher also states (p. 283), what should not be forgotten, that Cornwallis's army regularly and systematically plundered in every direction, and that his lordship's table was served with plate pillaged from private families. Probably more than £3,000,000 sterling worth of property was destroyed by the royal army during the six months previous to its surrender at Yorktown.



THE SURRENDER OF LORD CORNWALLIS AT YORKTOWN.
From the painting in the Capitol at Washington, painted by John Trumbull about 1820.

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quaint old melody entitled "The World Turned Upside Down."*

Exclusive of seamen, the total number of prisoners was about 7,000.† The British loss during the siege was between 500 and 600; the American loss in killed and wounded was about 300.‡ On the very day that Cornwallis capitulated, Clinton sailed from New York to relieve him, arriving at the Virginia Capes on October 24; but when he learned of the surrender he immediately returned to New York.¶ In recognition of the conduct of the officers and soldiers during the siege, Congress bestowed thanks upon the commander-in-chief, the French officers, and the various minor generals and through them upon the rank and file. On the day following the surrender, the general orders closed as follows: "Divine service shall be performed tomorrow, in the different brigades and divisions. The commander-in-chief recommends, that all the troops that are not on duty, do assist at it with a serious deportment, and that sensibility of heart which the recollection of the surprising and particular interposition of Providence in our favor claims." Congress also issued

a proclamation appointing December 13 as a day of thanksgiving and prayer.

After the capitulation, as De Grasse could not be induced to further aid the operations against the British in the South,* Washington sent 2,000 troops to reinforce the army under Greene, and dispatched the balance of the army to winter cantonment in the vicinity of New York. On November 27 he himself went to Philadelphia. The French troops remained in Virginia, and De Grasse sailed for the West Indies. While the allied armies had been completely successful in Virginia, and great advantages had been gained in the Carolinas, yet Washington did not relax his vigilance, and urged upon Congress and the country in general that preparations for another campaign should be begun. Writing to General Greene, he says: "I shall endeavor to stimulate Congress to the best improvement of our late success, by taking the most vigorous and effective measures to be ready for an early and decisive campaign the next year. My greatest fear is, that, viewing this stroke in a point of light which may too much magnify its importance, they may think our work too nearly closed, and fall into a state of languor and relaxation. To prevent this error, I

* *American Revolution*, vol. ii., p. 283.

† See the statistics in Carrington, *Battles of the Revolution*, pp. 642-643.

‡ Baneroft, vol. v., p. 522. See also Tench Tilghman, *Diary of the Siege of Yorktown*; Gordon, *American Revolution*, vol. iv., pp. 191-197 (ed. 1788); Drake, *Life of Knox*, pp. 69-73; Tarleton's Campaigns, pp. 372-393, 418-458; Lee's *Memoirs*, vol. ii., pp. 329-375.

¶ Holmes' *Annals*, vol. ii., p. 333.

* For details regarding his attempts to secure aid from de Grasse, see Tower, *Marquis de La Fayette*, vol. ii., p. 458 et seq.

shall employ every means in my power; and if, unhappily, we sink into this fatal mistake, no part of the blame shall be mine." Perceiving that there was no prospect of further active service until the next campaign, Lafayette obtained permission from Congress in November to return to France, and upon his departure took with him not only the resolves of Congress complimentary to his zeal and services,* but also the consciousness of possessing the esteem and regard of the entire country.

While Washington was conducting the operations against Cornwallis, the Loyalists of North Carolina had been quite active. A body of them under McNeil and McDougall had captured Hillsborough and had taken a number of prisoners. McNeil and some of his followers were subsequently killed in a skirmish with American troops, but McDougall succeeded in escaping the pursuit, and with a number of his prisoners, reached Wilmington in safety. This was practically the last of the Tory operations.

CHAPTER XXXII.

1782-1783.

ACTIVE WARFARE ENDS.

Operations in the Gulf region — Mobile district conquered — Pensacola captured — Operations in the Northwest — Detroit fortified — Bird's expedition into Kentucky — Clark's retaliation — Sinclair repulsed at St. Louis — The march of the Spaniards across Illinois — Pennsylvania troops under Lochry ambushed — Destruction of Crawford's force — Battle of the Blue Licks — Invasion of Major Ross in the Mohawk Valley — Washington urges preparations for another campaign — Condition of the finances — Case of Captain Huddy — Washington requested to become king — His answer — Washington's letter to the Secretary of War — St. Clair's operations in the South — Plan to seize General Greene — Finances — States consent to tax — Memorial of the army officers to Congress — "Newburg Addresses" — Washington's address to the officers — His letter to Congress — Half pay for army commuted to five years' full pay — Army accounts adjusted. Appendix to Chapter XXXII. — I. The Newburg Addresses. II. Washington's Address to the Army Officers.

While the British were suffering disaster after disaster in the East, events of vast importance were occurring in the Gulf region and the West. In 1777 Don Bernardo de Galvez had become governor of Louisiana, and as soon as he learned that open hostilities existed between

England and Spain, he began active preparations to drive the English from the Gulf region. In 1779 he compelled the surrender of Fort Bute at Bayou Manshae (or Manchac); Baton Rouge was taken as was Fort Panmure on the site of old Fort Rosalie, or modern Natchez; and three other garrisons were also captured.* In 1780 Galvez organized

* See Sparks, *Correspondence of the Revolution*, vol. iii., pp. 452-453, note; Tower, *Marquis de LaFayette*, vol. ii., pp. 461-463.

* *The South in the Building of the Nation*, vol. ii., p. 352; Phelps, *Louisiana*, pp. 139-146.

an expedition of whites, blacks, and Indians against Fort Charlotte and Mobile, and after a short campaign the entire Mobile district was conquered.* In 1781 Galvez determined to conquer Florida and for this purpose went to Cuba to organize an expedition against Pensacola. Landing on St. Rosa Island with 1,400 men, Pensacola was besieged by the Spaniards for a month and was successfully defended by the British until the powder magazine exploded, making a breach in the walls through which the attacking army was able to force an entry. The city then surrendered, and with it Spain came into possession of West Florida.† Galvez was decorated for his services, was promoted to lieutenant-general, and made captain-general of Florida and Louisiana.‡

Meanwhile Clark's capture of Vincennes and the Illinois posts had paralyzed the English efforts to carry on offensive warfare along the American frontiers, and the chief operations consisted of Indian raids against the Ohio River and the Kentucky settlements. It was feared that Clark would march against Detroit,

which at that time was in no condition to withstand an attack, and Richard B. Lenoir, who had been left in charge when Hamilton started on his ill-fated expedition to the Wabash, immediately began the erection of a fort on the rising ground back of the town. Captain Henry Bird was intrusted with the construction and pushed the work until February, 1778, when he decided to engage in more active service and resigned the construction work to Lieutenant Du Vernett. Bird then collected a force of 200 Shawanese Indians at Upper Sandusky for the purpose of carrying the war into Kentucky, but reports that the Kentuckians had raided the Shawanese towns threw the Indians into a panic, and the expedition was abandoned for a time.*

Captain Bird's disappointment did not last long, however. In 1778 a force of regulars from Fort Pitt had built Fort McIntosh on the site of the present town of Beaver, and during the autumn of that year General Lachlan McIntosh had advanced to the banks of the Upper Muskingum, where he erected Fort Laurens, near the present site of Bolivar. During the winter and spring of 1779, the Indians attacked the fort and captured several of the garrison, and the remainder were forced to retreat and

* Stedman, *American War*, vol. ii., pp. 188, 255, 263; Gordon, *American Revolution*, vol. iii., pp. 401, 405-459, 411, 412 (ed. 1788); King, *New Orleans*, p. 124.

† On these campaigns see Hamilton, *Colonial Mobile*, chap. xxxi.; Martin, *History of Louisiana*, vol. ii., chap. iii.; Gayarré, *History of Louisiana*, vol. iii., chap. iii.; Lowell, *Hessians in the Revolution*, pp. 251-254.

‡ King and Ficklen, *History of Louisiana*, p. 133.

* This was the raid of John Bowman, Harrod, Logan and others against Chillicothe which finally resulted in the defeat of the Kentuckians. See Roosevelt, *Winning of the West*, vol. ii., pp. 96-97; Moore, *The Northwest under Three Flags*, pp. 245-251.

abandon the post.* Bird had been present at some of these attacks, and in May, 1779, led 150 whites and 1,000 Indians to Kentucky, where he captured two small stockades on the South Fork of the Licking and then retreated to Detroit. The Kentuckians, enraged at this onset, organized a party of 970 men under Clark, hurried up the Ohio, and attacked Pickaway, driving the Indians into the forests.† After this there was a season of quiet.

In October, 1779, Patrick Sinclair was ordered to command the post at Michillimackinac succeeding Arent Schuyler de Peyster, who was ordered to Detroit. After erecting a fort at his new post, Sinclair determined to send out an expedition for the purpose of capturing St. Louis and other towns in that vicinity. In May, 1780, a force of 750 traders, servants, and Indians started down the Mississippi and soon arrived before St. Louis. A small force attacked the village, and before the Spaniards could organize to successfully resist the attack, had killed about 7 of the inhabitants and captured 18. The Spanish, however, soon drove the attacking party from the town.‡

By securing the mouth of the Mississippi, the Spanish had now practically gained control of the Mississippi Valley. It was determined to push the conquest still further to the Northwest in the hope that England might be persuaded to trade the Lake region for the British possession at Gibraltar, which was a constant menace to Spain. Therefore, in January, 1781, Don Francisco Cruzat, the commander in the Illinois district, sent out an expedition, under Don Eugénio Pourré (or Pierro) and Don Carlos Tayton, to capture British posts in Northern Indiana and Southern Michigan. Making the winter journey of 400 miles under the greatest hardships they finally arrived at Fort St. Joseph on the St. Joseph River. They found the fort deserted, and taking possession formally proclaimed that place and its dependencies and the Illinois River to be under the sovereignty of the Spanish king. Nothing further seems to have been accomplished, however, and no effort was made to prevent the recapture of the fort by the English from Detroit.* On the temporary possession of this single fort, Spain was suspected of trying to es-

* Doddridge, *Settlement and Indian Wars of Virginia and Pennsylvania*, p. 244 et seq.

† See Roosevelt, *Winning of the West*, vol. ii., pp. 102-111; *Michigan Pioneer Collections*, vol. ix., pp. 558-559; Winsor, *Westward Movement*, p. 175; Dunn, *Indiana*, p. 159.

‡ Estimates of the number killed in this action vary greatly, being placed at 7, 40, and 68 by different historians. See F. L. Billon, *Annals of St. Louis under the French and Spanish Domi-*

nations; E. H. Shepard, *Early History of St. Louis*; Moore, *The Northwest under Three Flags*, pp. 253-257.

* Edward G. Mason, *The March of the Spaniards across Illinois*, in *Magazine of American History*, vol. xv., pp. 457-470 (May, 1886); Moore, *The Northwest under Three Flags*, p. 257 et seq.; Dunn, *Indiana*, p. 160; Roosevelt, *Winning of the West*, vol. ii., p. 179.

tablish a claim to the western territory north as well as south of the Ohio.*

Meanwhile the forces at Fort Pitt had been planning an invasion of the Northwest. McIntosh had been succeeded in command at Fort Pitt by Colonel Daniel Brodhead, under whom in April, 1781, the Delaware villages on the Muskingum were laid waste.† Brodhead was ordered to aid Clark's western enterprises, and in August, 1781, a force of 107 Pennsylvania mounted soldiers under Colonel Archibald Lochry was sent to join Clark, but at the mouth of the Great Miami this force was ambushed and annihilated.‡ In October, 1781, William Irvine, sent to take command at Fort Pitt, determined to send an expedition to capture Detroit. In May, 1782, therefore, a force of 480 men under William Crawford started on the journey,|| and early in June had reached Upper Sandusky. Receiving news of this intended invasion, De Peyster at Detroit immediately took steps to repel it. He secured the services of the Indians, chiefly Wyandots and Delawares, sending them ahead to intercept the Americans, and also organized a body of rangers under Cap-

tain Caldwell to support the savages. Meanwhile, after reaching Upper Sandusky on June 4, Crawford had determined to push forward, and soon met the advancing Indians. Crawford attacked the Delawares who appeared first and defeated them, but the Wyandots now appeared and the Delawares slipped around to attack the Americans in the rear. But night fell, and fighting was discontinued until the next day. At day-break the battle was renewed, the Americans being surrounded by the Delawares on the south and the Wyandots on the north. The Rangers from Detroit now arrived on the field, and 200 Shawanese also swept up from the south. To save his force, Crawford determined to retreat, and finally, with only 300 men left, succeeded in reaching Upper Sandusky. Colonel Crawford, however, was found to be missing, and it was then decided to continue the retreat to the point from which the expedition had started, which was reached on June 17. Crawford had remained behind to wait for some stragglers to come up, and had been captured by the Delaware Indians. Handed over to the chiefs, he was tortured and burned at the stake, and thus ended his ill-fated expedition.*

* Wharton, *Diplomatic Correspondence*, vol. v. pp. 363-364; Sparks' ed. of *Franklin's Writings*, vol. ix., pp. 206, 386.

† Roosevelt, *Winning of the West*, vol. ii., p. 151.

‡ *Ibid.*, p. 117.

|| See Irvine's letter to Washington, in Sparks, *Correspondence of the Revolution*, vol. iii., pp. 509-511.

* See C. W. Butterfield, *Crawford's Campaign*; Roosevelt, *Winning of the West*, vol. ii., pp. 158-166; Moore, *The Northwest under Three Flags*, pp. 267-275; Dunn, *Indiana*, pp. 160-161; King, *Ohio*, pp. 158-159; Irvine's letter of July 11, in Sparks, *Correspondence of the Revolution*, vol. iii., pp. 522-524.

In June news of the peace negotiations and the cessation of hostilities reached Detroit, and on August 15 De Peyster sent an express to Caldwell to cease operations, but before the message arrived he had inflicted a disastrous defeat on the Americans in Kentucky. Caldwell had taken a force of 30 Rangers and 200 Lake Indians, beside some Delawares and Shawanese, and made an unsuccessful attack on Bryan's Station in Kentucky. Clark's lieutenant, Colonel John Todd, aided in resisting the attack, and then pursued the Indians until the two forces met, resulting in the battle of Blue Licks, in which Todd and 70 of his command were killed, and seven captured, with the loss to the enemy of only one Ranger and six Indians.* Clark determined to retaliate, and in November he and Simon Kenton at the head of 1,050 men attacked the Miami towns, burned crops, captured prisoners, recaptured whites, and destroyed the establishments of the British traders. This attack ended the Revolutionary war in the Northwest.†

In the latter part of August, Major Ross made an incursion into the Mohawk Valley, at the head of 600 regulars, rangers and Indians. At Johnstown, Colonel Marinus Willett with

about 350 troops came up with him, but in the ensuing engagement part of the Americans took to flight. Willett was soon afterward reinforced by 200 militia and when the battle was renewed the British were in turn put to flight. Though Willett pursued them, he was unsuccessful in his attempt to capture or destroy the force. The loss of the enemy in killed is not known, but 52 prisoners were taken. Of the American force 13 were killed, 23 were wounded, and 5 missing. Among the killed was Walter Butler, who had become infamous through the massacre at Cherry Valley.* Though he pleaded for mercy, he was treated exactly as he had treated his prisoners at Cherry Valley.

Fearing that because of the successes of the American troops in Virginia the efforts of Congress and the people in general would be relaxed, Washington recommended vigorous preparations for another campaign, saying, "Whatever may be the policy of European courts during this winter, their negotiations will prove too precarious a dependence for us to trust to. Our wisdom should dictate a serious preparation of war, and, in that state, we shall find ourselves in a situation secure against every event." While in Philadelphia, Washington secured the passage of a reso-

* Roosevelt, *Winning of the West*, vol. ii., pp. 187-207; Shaler, *Kentucky*, pp. 83-97.

† Moore, *The Northwest under Three Flags*, pp. 275-276; Shaler, *Kentucky*, p. 91; Dunn, *Indiana*, p. 161; Lossing, *Field-Book of the Revolution*, vol. ii., pp. 294-295; Roosevelt, vol. ii., pp. 208-210.

* See Campbell, *Border Warfare of New York*, pp. 208-213; Thacher, *Military Journal*, p. 294; Heath's *Memoirs*, pp. 294-296; Lossing, *Field-Book of the Revolution*, vol. i., pp. 290-292.

lution appropriating money and supplies sufficient to maintain the military establishment for about a year. The States were requested to furnish their quotas of troops as soon as possible, and Washington himself wrote two circular letters to the governors of the various States.* These letters were sent out toward the close of January, 1782, and in them Washington reminded the governors how the army had been thrown into a ferment twelve months before because of inability to pay the troops, and by lack of clothing and provisions. He gave warning that the recent successes in Virginia might tend to cool the ardor of the country in prosecuting the war; assured them that a vigorous prosecution of the war was the only thing that would guarantee the independence of the United States; and exhorted them to adopt such measures as would insure the prompt payment of the money requested by Congress.† A few days later, he addressed another note to the States, requesting them to complete their quotas of troops, saying that the continuance of the war rested on their vigor and decision, and that the terms of peace, if the enemy were disposed to treat, might largely depend upon whether the American army was or was not superior in troops and equip-

ment to the British. He said: "I am persuaded that only some great occasion was wanting, such as the present movement exhibits, to rekindle the latent sparks of that patriotic fire into a generous flame, to rouse again the unconquerable spirit of liberty, which has sometimes seemed to slumber for a while, into the full vigor of action."*

Nevertheless, the result was extremely disappointing to Washington. The State legislatures declared that their constituents were unable to pay taxes; and, instead of making preparations to replenish the Continental treasury, several of the States were devising means to draw money from it. Moreover, some of the States which had imposed taxes directed that the necessities of the State should be supplied first, and that only the residue should be paid to the Continental treasury. Morris had succeeded in greatly diminishing the running expenses of the government, but as yet they were great and must continue so, even though the means of meeting these expenses failed. At the beginning of 1782 there was not a dollar in the treasury, and yet, as Marshall says, "to the financier every eye was turned; to him the empty hand of every public creditor was stretched forth; and against him, instead of the state governments, the complaints and imprecations of every unsatisfied claimant were directed."

* See Sparks, *Life of Washington*, pp. 347-350. See also Lodge, *George Washington*, vol. i., p. 315 *et seq.*

† Sparks' ed. of *Washington's Writings*, vol. viii., p. 226.

* *Ibid*, vol. viii., pp. 232, 235.

Morris deeply felt the ingratitude of the country, but resolved not to abandon the cause. In writing to Washington to inform him that the taxes due in July would not be paid until December, he said:

"With such gloomy prospects as this letter affords, I am tied here to be baited by continual clamorous demands; and for the forfeiture of all that is valuable in life, and which I hoped at this moment to enjoy, I am to be paid by invective. Scarce a day passes, in which I am not tempted to give back into the hands of Congress the power they have delegated, and to lay down a burden which presses me to the earth. Nothing prevents me but a knowledge of the difficulties which I am obliged to struggle under. What may be the success of my efforts, God only knows; but to leave my post at present, would, I know, be ruinous. This candid state of my situation and feelings I give to your bosom, because you, who have already felt and suffered so much, will be able to sympathize with me."

Toward the middle of April, 1782, Washington left Philadelphia and rejoined the army at headquarters at Newburg. Upon his arrival there, he was informed of a shameful proceeding which has occurred some time previously. Captain Joshua Huddy, commanding a body of troops in Monmouth County, had been attacked by a party of refugees from New York, made prisoner, and closely confined in New York. A few days later he was led out and hung with a label on his breast stating that this was done in return for similar treatment to some of their number. Washington immediately took the matter into consideration and laid it before Congress. He then wrote to Clinton demanding that Captain Lippincott, the perpetrator of the deed, be given

up, but as Clinton refused to comply with this demand Washington determined upon retaliation. He chose Captain Charles Asgill, a British officer of equal rank with Captain Huddy, who was then a prisoner in American hands, as the one upon whom a fate similar to that of Huddy should be visited. Both Clinton and Tarleton reprobated Lippincott's act, but they refused to surrender him, as it was asserted that he had only followed the orders of the Board of Associated Loyalists in New York. The matter was in suspense for a number of months, during which time Asgill's mother made every effort to save his life, even soliciting the interference of Vergennes, who wrote to Washington in her behalf. Finally, Washington set Asgill at liberty.*

The various States did not send in their quotas of troops as promptly as Washington had expected, and he endeavored to arouse the States from their apathy by a circular letter, but with no greater success. Because Congress had been in arrears with their pay, the soldiers had become still more discontented and began to brood over their hardships. In reflecting on the inefficiency of Congress, and almost in despair of the success of the republican form of

* Thacher, *Military Journal*, pp. 302-310; Heath's *Memoirs*, pp. 309-316 (Abbatt's ed.); Sparks, *Life of Washington*, pp. 350-352; Lodge, *George Washington*, vol. i., pp. 318-322; Irving, *Life of Washington*, vol. iv., pp. 420-423. See also the various letters regarding this quoted in Hale, *Franklin in France*, vol. ii., p. 207 et seq.

government, they began to consider placing supreme authority in the hands of one man. Their sentiments were presented to Washington in a very able letter, stating the present condition of affairs, and setting forth the defects of the political organization as it existed at that time. This letter closes with the following remarks:

"This must have shown to all, and to military men in particular, the weakness of republics, and the exertions the army have been able to make by being under a proper head. Therefore, I little doubt, that, when the benefits of a mixed government are pointed out, and duly considered, such will be readily adopted. In this case, it will, I believe, be uncontroverted, that the same abilities which have led us through difficulties, apparently insurmountable by human power, to victory and glory, those qualities that have merited and obtained the universal esteem and veneration of an army, would be most likely to conduct and direct us in the smoother paths of peace. Some people have so connected the ideas of tyranny and monarchy, as to find it very difficult to separate them. It may, therefore, be requisite to give the head of such a constitution as I propose some title apparently more moderate; but, if all things were once adjusted, I believe strong arguments might be produced for admitting the name of KING, which I conceive would be attended with some material advantages."*

In answering this communication, Washington said:

"NEWBURG, 22 May, 1782.

"Sir,

"With a mixture of great surprise and astonishment, I have read with attention the sentiments you have submitted to my perusal. Be assured, sir, no occurrence in the course of the war has given me more painful sensations, than your information of there being such ideas existing in the army as you have expressed, and I must view with abhorrence, and reprehend with severity. For the present, the communication of them will rest in my own bosom, unless some

further agitation of the matter shall make a disclosure necessary.

"I am much at a loss to conceive what part of my conduct could have given encouragement to an address, which to me seems big with the greatest mischiefs that can befall my country. If I am not deceived in the knowledge of myself, you could not have found a person to whom your schemes are more disagreeable. At the same time, in justice to my own feelings, I must add, that no man possesses a more sincere wish to see ample justice done to the army than I do; and as far as my powers and influence, in a constitutional way, extend, they shall be employed, to the utmost of my abilities, to effect it, should there be any occasion. Let me conjure you, then, if you have any regard for your country, concern for yourself and posterity, or respect for me, to banish these thoughts from your mind, and never communicate, as from yourself or any one else, a sentiment of the like nature.

"I am, sir, &c.,

"GEORGE WASHINGTON."*

Meanwhile, having an army of but 10,000 men, Washington had been unable to undertake offensive operations, and the summer passed away in inactivity. General Carleton also remained quiet in New York, and to all intents and purposes the war was at an end. Early in August Washington was informed by Carleton and Digby that negotiations for peace had been opened at Paris; that the independence of the United States would be acknowledged; that Laurens had been set at liberty; and that passports would be given to such Americans as had been detained prisoners in England.† Carleton also wrote to

* See Sparks' ed. of *Washington's Writings*, vol. viii., pp. 300-302; and his *Life of Washington*, p. 355; Lodge, *George Washington*, vol. i., pp. 329-330; Irving, *Life of Washington*, vol. iv., pp. 429-430.

† Irving, *Life of Washington*, vol. iv., p. 430.

* Sparks, *Life of Washington*, p. 354.

Washington, stating that he saw no reason for continuing the contest, and therefore disapproved of further hostilities either on sea or land, saying that these "could only tend to multiply the miseries of individuals, without a possible advantage to either nation." He added that he had withheld the dispatching of Indian parties against the frontiers and had recalled those already in the field. As a result of these communications to the commander-in-chief, the French minister in America became jealous, and in order to put at rest any feeling in the matter, Congress renewed its resolution "to enter into no discussion of any overtures for pacification, but in confidence and in concert with his most Christian majesty."

On April 12, 1782, the French fleet under De Grasse was defeated by the English fleet under Rodney, thus giving security to the British West India Islands, and it was feared that because of this the negotiations for peace might be protracted and possibly broken off altogether, and that hostilities might even be renewed.* The commanding officers had contemplated a reduction of the army, but because of the neglect of the States in furnishing money to the Continental Treasury, there was no means of paying the officers and troops, and

indeed, hardly enough could be obtained to furnish supplies for the army. Washington thereupon wrote a note to the Secretary of War, in which he said:

"While I premise that no one I have seen or heard of appears opposed to the principle of reducing the army as circumstances may require; yet I cannot help fearing the result of the measure in contemplation, under present circumstances, when I see such a number of men, goaded by a thousand stings of reflection on the past, and of anticipation on the future, about to be turned into the world, soured by penury, and what they call the ingratitude of the public; involved in debts, without one farthing of money to carry them home, after having spent the flower of their days, and, many of them, their patrimonies, in establishing the freedom and independence of their country; and having suffered everything which human nature is capable of enduring on this side of death. I repeat it, when I reflect on these irritating circumstances, unattended by one thing to soothe their feelings, or brighten the gloomy prospect, I cannot avoid apprehending that a train of evils will follow, of a serious and distressing nature. * * *

"I wish not to heighten the shades of the picture, so far as the real life would justify me in doing, or I would give anecdotes of patriotism and distress, which have scarcely ever been paralleled, never surpassed, in the history of mankind. But you may rely upon it, the patience and long sufferance of this army are almost exhausted, and there never was so great a spirit of discontent as at this instant. While in the field it may be kept from breaking out into acts of outrage; but when we retire into winter quarters (unless the storm be previously dissipated,) I cannot be at ease respecting the consequences. It is high time for a peace."*

While inactivity prevailed in the North to a great degree, operations were still being carried on in the South. General St. Clair, who conducted the reinforcements from Yorktown toward the South, reached Gen-

* For the operations of the French and English in other parts of the world, see Fisher, *Struggle for American Independence*, vol. ii., pp. 504-523, and authorities cited.

* Irving, *Life of Washington*, vol. iv., pp. 432-433.

eral Greene's headquarters early in January. He had been instructed to invest the British post at Wilmington on his way down, but, before he arrived at that place, the British garrison evacuated, and he was not detained there. Because of the casualties of a long march, the force under St. Clair had considerably diminished and did little more than supply the vacancies in Greene's army, occasioned by the discharge of those soldiers whose terms expired on the last day of December. Upon St. Clair's arrival, Greene sent General Wayne across the Santee to protect Georgia. General Sir Alfred Clarke, commanding the British troops in that province, numbering about 1,000 regulars in addition to the militia, concentrated his force at Savannah. While Wayne was engaged in watching the movements of the British, a strong party of Creek Indians attacked his force on May 24, and Wayne barely saved it from total annihilation. This conflict terminated the war in Georgia. On July 11 Savannah was evacuated, and Wayne thereupon rejoined General Greene.*

Because of the difficulty of procuring provisions, great discontent prevailed in the American army, and finally resulted in a treasonable correspondence between the Pennsylvania troops and the British. One of

the objects of this intercourse was to seize General Greene and deliver him to a detachment of British which would march out from Charleston for that purpose. Fortunately, however, the design was discovered in time, and the chief conspirator was condemned and executed. Toward the end of April, a number of desertions from the army occurred in consequence of the ungrateful treatment of Congress.†

Though the intention of evacuating Charleston was announced as early as August 7, General Leslie continued to occupy the city until December 14, and during this time proposed to General Greene that hostilities be suspended. The latter was strongly inclined to adopt this course, but did not consider that he possessed authority to enter into a definite arrangement with that end in view, deeming this a matter for the civil authorities. Leslie offered also to pay for the rice and other provisions sent into the town; but on the other hand, he threatened to take them by force and without compensation if they were withheld. General Greene suspected that this was a subterfuge to collect in Charleston a sufficient quantity to supply the army during its operations against the French West Indies, and therefore he declined to allow any such arrangement to be made. The

* Stillé, *Wayne and the Pennsylvania Line* pp. 286-291; Heath's *Memoirs*, p. 323 (Abbatt's ed.); Lossing, *Field-Book of the Revolution*, vol. ii., pp. 534-535.

* See Greene, *Life of Greene*, pp. 365-366; Caldwell, *Life of Greene*, p. 363.

† Lossing, *Field-Book of the Revolution*, vol. ii., pp. 570-571.

British thereupon made a number of foraging incursions into the country, and a number of skirmishes took place between them and the Americans. Though none of these skirmishes were of importance in themselves, still the American army suffered a severe loss when, during an engagement on August 27, Lieutenant-colonel John Laurens was killed.* Shortly afterward Captain Wilmot attacked a party of British soldiers at James Island, near Fort Johnson, but during the skirmish the captain and a number of men were killed, and the rest retreated.† This was the last battle of the Revolution.‡

Toward the latter end of September, the French troops left Virginia and joined the American forces on

* Thacher, *Military Journal*, p. 313. See also Greene's letter, in Sparks, *Correspondence of the Revolution*, vol. iii., pp. 529-530; Lossing, *Field-Book of the Revolution*, vol. ii., pp. 571-573.

† Lossing, p. 573.

‡ "It has been estimated that the loss of lives in the various armies of the United States, during the war, is not less than seventy thousand. The numbers who died on board of the horrid prison-ships of the enemy cannot be calculated. It is, however, confidently asserted, that no less than eleven thousand of our brave soldiers died on board the one called the Jersey prison-ship only! This dreadful mortality is universally attributed to the cruel treatment which they received while crowded together in close confinement. The loss to Great Britain is two large armies captured by the United States, exclusively of many thousands killed and taken in various actions during the war; thirteen colonies dismembered from her; and an increase of her national debt, in seven years, £120,000,000. The United States have gained that independence and liberty for which they contended, and find their debt to be less than \$45,000,000, which is short of £10,000,000 sterling."—Thacher, *Military Journal*, p. 344.

the Hudson. In October they marched to Boston, and near the end of the year embarked for the West Indies. Washington returned to Newburg, which continued to be his headquarters until the final disbandment of the army. While it was hardly possible that any further engagements should take place, still Washington, in order to pacify the soldiers, and prevent any outbreak on their part as a result of irritation because of the poor treatment by Congress, continued to remain with the army until the very end. Regarding the discontent among the soldiers at this time, Marshall speaks as follows: "To judge rightly of the motives which produced this uneasy temper in the army, it will be necessary to recollect, that the resolution of October, 1780, granting half-pay for life to the officers, stood on the mere faith of a government, possessing no funds enabling it to perform its engagements. From requisitions alone, to be made on sovereign states, supplies were to be drawn," and during the time that dangers threatened the army, the ill-success of these resolutions "furnished melancholy presages of their unproductiveness in time of peace." Furthermore, "the disposition manifested by Congress was so unfriendly to the half-pay establishment as to extinguish the hope, that any funds they might acquire would be applied to that object. Since the passage of the resolution, the Articles of Confederation which require the concur-

rence of nine States to any act appropriating money, had been adopted; and nine States had never been in favor of the measure." It was also well known that the majority of the members of Congress opposed this method of compensating the army officers, and it was but natural that inquietude among the officers should increase as the time for disbanding the army approached.*

Meanwhile Congress had been laboring with the finances. It was estimated that \$8,000,000 would be required during 1783, beside \$1,200,000 to pay the interest on the domestic debt. A call for the latter amount had already been put in, the quota of each State, in the first place, to be applied to the payment of public creditors resident in it, while the Federal Treasury was only to receive the balance. When Congress met in November, 1782, with Elias Boudinot of New Jersey as President, the Pennsylvania Assembly complained of the neglect of Congress in liquidating and providing for the domestic debt, and intimated that the Assembly would apply the receipts from the Federal taxes just levied in that State toward paying the Federal creditors therein resident. Congress thereupon appointed commissioners for each State to audit, settle, and reduce to specie value, in accordance with the official scale of depreciation, all outstanding

claims in the old paper currency for supplies furnished, services rendered or money advances made to the government or expended on Federal account. Commissioners were also appointed to settle the accounts of the old treasury, war and marine boards, of the various army departments, and of the agents, commercial correspondents and other commissioners in Europe. Pennsylvania, therefore, in view of the willingness of Congress to settle its accounts, decided to withhold the threatened action.

In the meantime the majority of the States had reluctantly assented to the proposed import duty of 5 per cent.* Georgia had just been restored to the Union and had not yet considered the subject. Rhode Island, however, refused to give her assent to the measure, stating that the tax was unequal, that it would bear hardest on commercial States and particularly Rhode Island, and that it was dangerous to trust its collection to Federal officers not known nor even accountable to the State governments.† Hamilton prepared an answer to these objections,‡ and a com-

* See Dallas, *Laws of Pennsylvania*, vol. i., p. 890; Wilson, *Acts of New Jersey*, p. 191; *Journal of the [Va.] House of Delegates*, May 30, 1781; Henning's *Statutes-at-Large*, vol. x., p. 459; *Journals of Congress*, vol. iii., pp. 594, 600, 674; Oberholtzer, *Life of Robert Morris*, pp. 184-187.

† *Rhode Island Records*, vol. ix., pp. 487, 612, 682-684; Bates, *Rhode Island and the Formation of the Union*, pp. 72-82; Staples, *Rhode Island in the Continental Congress*, p. 400.

‡ *Journals of Congress*, vol. iv., p. 200; Lodge, *Alexander Hamilton*, p. 39.

* Marshall, *Life of Washington*, vol. iv., p. 580.

mittee was appointed to proceed to Rhode Island for the purpose of strengthening the arguments contained in Hamilton's answer; but before they had started, word was received that the Virginia Assembly had repealed its act assenting to the proposed duty, also declaring that the State was unable to pay more than a small part of the Federal requisitions made upon her.* The Rhode Island delegation therefore returned, and two days later was discharged from its mission.†

By January, 1783, the Treasury had received only \$420,000 of the \$8,000,000 required by Congress from the States.‡ Morris had \$400,000 of outstanding Treasury notes to meet shortly, and as the French and Holland loans had been exhausted he had been forced to overdraw on the American bankers abroad to the extent of 3,500,000 livres or about \$600,000. The only resources on which Morris could rely to meet these drafts were the produce of a Dutch loan lately

opened by Adams, and the friendship of France,* which had resulted in the loan already mentioned of \$1,100,000, though Morris did not as yet know of this. Before making further drafts, Morris asked the sanction of Congress, which on January 10, 1783, was given,† and he was therefore able, by the sale of additional drafts, to send a month's pay to the army.

During the interval, however, because the army accounts had remained unliquidated, there was great discontent in the army. It had been sufficiently difficult to provide for the bare subsistence of the army without paying for services rendered, and Morris had been compelled, because of the lack of money, and in order to secure three months' credit, to make an advance of 30 per cent. on his contract for army supplies.‡ Many of the army officers, being destitute of private means, had become deeply in debt and were thus reduced to great distress. Soon after going into winter quarters, the army officers sent a memorial to Congress on the subject of their accounts, General McDougall and Colonels Aaron Ogden and John Brooks being deputized to present the memorial. This occurred in December, 1782. The "Address and Petition" was well calculated to

* *Journal of the House of Delegates*, pp. 55-58; Hening's *Statutes*, vol. x., pp. 459, 451, vol. xi., p. 171; also Oberholtzer, *Life of Morris*, p. 192; Hunt, *Life of Madison*, p. 36 et seq.

† Bates, *Rhode Island and the Formation of the Union*, p. 82.

‡ "Imagine," said Morris, "the situation of a man who is to direct the finances of a country almost without revenue (for such you will perceive this to be) surrounded by creditors whose distresses, while they increase their clamors, render it more difficult to appease them; an army ready to disband or mutiny; a government whose sole authority consists in the power of framing recommendations."—Wharton, *Diplomatic Correspondence of the Revolution*, vol. iv., p. 203.

* McLaughlin, *The Confederation and the Constitution*, p. 57.

† Sumner, *Robert Morris*, p. 88 et seq.; *Secret Journals of Congress*, vol. i., p. 253.

‡ Oberholtzer, *Life of Robert Morris*, p. 118.

secure definite action on the part of Congress.* It strongly urged the commutation of the half-pay stipulated in the resolution of October, 1780,† not only because it was right and just, but also because the troops were suffering from extreme hardship through poverty. The Address concluded as follows: "It would be criminal in the officers to conceal the general dissatisfaction which prevails, and is gaining ground in the army, from the pressure of evils and injuries, which, in the course of seven long years, have made their condition, in many instances, wretched. They therefore entreat, that Congress, to convince the army and the world, that the independence of America shall not be placed on the ruin of any particular class of her citizens, will point out a mode of immediate redress." Congress was plainly told that further experiment on the patience of the soldiers would be perilous in the extreme.‡

Undoubtedly some of the members of Congress were disposed to do full justice to the officers, and they felt deeply regarding the treatment accorded them; a large number of the members wished to act in a truly national spirit and manner, and faithfully to discharge all the obligations

of the confederacy. But the majority felt otherwise on the subject. They were jealous of State rights and State sovereignty, and opposed the liquidation of debts due the soldiers from the Continental treasury, urging instead that unsettled accounts be transferred to the States for payment.* A resolve was passed recognizing the claims of the public creditors, though no method of making payments of the same was suggested. Throughout the winter, Congress acted in a very unsatisfactory manner, and as late as March, 1783, nothing had been done to adjust the matter.‡

The army officers were highly indignant at the course pursued by Congress and called for more energetic measures. Hamilton believed that Washington was daily growing more unpopular because he disliked unlawful measures, and that leading characters were doing everything possible to undermine his influence. Hamilton and others were not altogether sorry to see the army restless,‡ because they thought that thus Congress and the States would be brought to their senses. Hamilton wrote patronizingly to Washington that the "claims of the army, urged with moderation, but with firmness, may operate with those weak minds

* See Bancroft, vol. vi., pp. 59-60; Brooks, *Life of Knox*, p. 168.

† *Journal of Congress*, October 21, 1780, vol. vi., p. 336. See also Curtis, *Constitutional History*, vol. i., p. 108 *et seq.*

‡ *Journal of Congress*, April 29, 1783, vol. viii., pp. 225-228.

* See note in Curtis, *History of the Constitution*, vol. i., pp. 194-199.

† See Bancroft, vol. vi., pp. 61-69.

‡ Hamilton's ed. of *Hamilton's Works*, vol. i., pp. 346-348.

which are influenced by their apprehensions more than by their judgments, so as to produce a concurrence in the measures which the exigencies of affairs demand." He also hoped that Washington's influence would keep "a complaining and suffering army within the bounds of moderation."* Gouverneur Morris took a more dangerous tone, for he almost hoped the army would revolt. Writing to Jay he said: "The army have swords in their hands. You know enough of the history of mankind to know much more than I have said, and possibly much more than they themselves yet think of. I will add, however, that I am glad to see things in their present train. Depend on it, good will arise from the situation to which we are hastening,* * * although I think it probable that much of convulsion will ensue, yet it must terminate in giving government that power without which government is but a name."† Evidently the idea of Hamilton and Morris was to have the army threaten in such a way that Congress would take the steps necessary to form a more perfect union and at the same time satisfy the soldiers by paying them.

Meanwhile, however, the situation at Newburg was daily becoming more serious. On March 10, 1783, a notice of a meeting was circulated in the camp, not only fixing the time but also setting forth the object. On the

same day an anonymous "Address" to the army was issued, this being the first of the famous "Newburg Addresses."* Washington had the sagacity to see that this meeting, if held under the present excited conditions, would result in nothing good, and therefore interposed. He forbade the meeting of the soldiers at the call of an anonymous notice, but directed that the officers meet on the 15th to hear the report of their committee and to formulate such plans as were considered necessary. The next day another of the "Newburg Addresses" was issued, in which it was claimed that Washington favored the contemplated proceedings. Washington plainly perceived the necessity of his presence at the meeting, at which time he should exert all his influence to secure moderation in the proceedings. He warmly sympathized with the army, but knew at the same time that rash action would only bring shame and disgrace upon it. He therefore reasoned with the officers to secure from them promises to adopt moderate measures.

When the officers convened on the

* These addresses were written by Major, afterwards General John Armstrong (the younger) aide-de-camp to General Gates. The first and principal one will be found in Appendix II. at the end of the present chapter. See also Thacher, *Military Journal*, p. 321 *et seq.*; Brooks, *Life of Knox*, p. 172; Irving, *Life of Washington*, vol. iv., p. 436 *et seq.*; Sparks' ed. of *Washington's Writings*, vol. viii., pp. 555-558; Hatch, *Administration of the American Revolutionary Army*, pp. 161, 197-199; Sparks, *Life of Gouverneur Morris*, vol. i., p. 253.

* *Ibid.*, p. 328.

† Sparks, *Gouverneur Morris*, vol. i., p. 249.

15th, General Gates was placed in a chair, and Washington then arose to speak to them. "My eyes," he said, "have grown dim in my country's service, but I never doubted of its justice." He then read the address which he had prepared,* and gave them much wise and earnest advice, saying that they should not tarnish the good name earned in so many hard fought battles by rash and hasty action. Pledging himself to use his utmost endeavors in their behalf, he urged that they rely upon the faith of the United States, which, he said, would undoubtedly be sacredly preserved.† When he had finished his address,‡ tears were in many eyes and he was allowed to depart in silence.¶ No word of opposition to his paternal counsel was spoken, and resolves were adopted in accordance with the spirit manifested in his

address. It was declared that the army still had unshaken confidence in the justice of Continental Congress and the country at large, and "viewed with abhorrence, and rejected with disdain, the infamous proposition contained in the late anonymous address to the officers of the army."* Mr. Curtis says: "Even at this distant day the peril of that crisis can scarcely be contemplated without a shudder. Had the commander-in-chief been other than Washington, had the leading officers by whom he was surrounded been less than the noblest of patriots, the land would have been deluged with the blood of a civil war. But men who had suffered what the great officers of the Revolution had suffered, had learned the lesson of self-control which suffering teaches. The hard school of adversity in which they had passed so many years made them sensible to an appeal, which only such a chief as Washington could make."† On March 18, 1783, in accordance with his promise, Washington wrote an energetic letter to Congress‡ in which he says: "The result of the proceedings of the grand convention of the officers, which I have the honor of enclosing to your

* See Appendix II., at the end of the present chapter. See also Thacher, *Military Journal*, pp. 325-329; *Journals of Congress*, vol. viii., pp. 180-183; Sparks, *Life of Washington*, p. 361 *et seq.*; Irving, vol. iv., p. 440 *et seq.*

† Lodge, *George Washington*, vol. i., p. 327. See also Fiske, *Critical Period of American History*, pp. 109-112.

‡ "It was happy for the army and country, that when his Excellency had finished and withdrawn, no one rose and observed: 'That General Washington was about to quit the military line laden with honor, and that he had a considerable estate to support him with dignity, but that their case was very different.' Had such ideas been thrown out, and properly enlarged upon, the meeting would probably have concluded very differently." Gordon, *History of the American Revolution*, vol. iii., p. 361.

¶ Baneroff, vol. vi., pp. 70-74; Quincy, *Memoir of Major Shaw*, p. 104; Lossing, *Life of Schuyler*, vol. ii., p. 427, note.

* Thacher, *Military Journal*, pp. 329-331, where the entire resolution is given. See also Lossing, *Field-Book of the Revolution*, vol. i., pp. 674-679; Brooks, *Life of Knox*, p. 173.

† Curtis, *Constitutional History*, vol. i., pp. 113-114.

‡ Sparks' ed. of *Washington's Writings*, vol. viii., p. 396.

Excellency, for the inspection of Congress, will, I flatter myself, be considered as the last glorious proof of patriotism which could have been given, by men who aspired to the distinction of a patriot army, and will not only confirm their claim to the justice, but will increase their title to the gratitude, of their country." His concluding words are:

"If, besides the simple payment of their wages, a further compensation is not due to the sufferings and sacrifices of the officers, then have I been mistaken indeed. If the whole army have not merited whatever a grateful people can bestow, then have I been beguiled by prejudice, and built opinion on the basis of error. If this country should not, in the event, perform everything which has been requested in the late memorials to Congress, then will my belief become vain, and the hope that has been excited void of foundation. And if, as has been suggested, for the purpose of inflaming their passions, the officers of the army are to be the only sufferers by this

Revolution; if, retiring from the field, they are to grow old in poverty, wretchedness, and contempt; if they are to wade through the vile mire of dependency, and owe the miserable remnant of that life to charity which has hitherto been spent in honor; then shall I have learned what ingratitude is; then shall I have realized a tale which will embitter every moment of my future life. But I am under no such apprehensions; a country rescued by their arms from impending ruin, will never leave unpaid the debt of gratitude."*

On March 22, 1783, Congress therefore passed resolutions providing that the half pay for life granted to the soldiers should be commuted to five years' full pay after the close of the war,† to be received at the option of Congress or in securities given to other creditors of the United States. By the following July the accounts of the army were finally made up and adjusted.‡

APPENDIX TO CHAPTER XXXII.

I. THE NEWBURG ADDRESSES.

TO THE OFFICERS OF THE ARMY.

GENTLEMEN: A fellow-soldier, whose interest and affections bind him strongly to you—whose past sufferings have been as great, and whose future fortune may be as desperate, as yours—would beg leave to address you.

Age has its claims, and rank is not without its pretensions to advise, but, though unsupported by both, he flatters himself that the plain language of sincerity and experience will neither be unheard nor unregarded.

Like many of you, he loved private life, and left it with regret. He left it, determined to retire from the field, with the necessity that called him to it, and not till then—not till the enemies of his country, the slaves of power, and the hirelings of injustice, were compelled to abandon their schemes, and acknowledge America as terrible in arms as she had been humble in remonstrance. With this object in view, he has long

shared in your toils and mingled in your dangers. He has felt the cold hand of poverty without a murmur, and has seen the insolence of wealth without a sigh. But too much under the direction of his wishes, and sometimes weak enough to mistake desire for opinion, he has till lately—very lately—believed in the justice of his country. He hoped that, as the clouds of adversity scattered, and as the sunshine of peace and better

* Irving, *Life of Washington*, vol. iv., pp. 445-447.

† *Journals of Congress*, March 22, 1783; Bancroft, vol. vi., p. 75; Thacher, *Military Journal*, pp. 331-332; Hamilton's letter to Washington, in Sparks, *Correspondence of the Revolution*, vol. iv., p. 8.

‡ See the note in Curtis *History of the Constitution*, vol. i., pp. 190-194.

fortune broke in on us, the coldness and severity of government would relax, and that more than justice, that gratitude, would blaze forth on those hands which had upheld her, in the darkest stages of her passage from impending servitude to acknowledged independence. But faith has its limits, as well as temper, and there are points beyond which neither can be stretched, without sinking into cowardice or plunging into credulity. This, my friends, I conceive to be your situation: hurried to the very edge of both, another step would ruin you forever. To be tame and unprovoked when injuries press hard on you, is more than weakness; but to look up for kinder usage, without one manly effort of your own, would fix your character, and show the world how richly you deserve those chains you broke. To guard against this evil, let us take a review of the ground on which we now stand, and thence carry our thoughts forward for a moment, into the unexplored field of experiment.

After a pursuit of seven long years, the object for which we set out is at length brought within our reach—yes, my friends, that suffering courage of yours was active once: it has conducted the United States of America through a doubtful and bloody war. It has placed her in the chair of independency, and peace returns again to bless—whom? A country willing to redress your wrongs, cherish your worth, and reward your services? A country courting your return to private life, with tears of gratitude and smiles of admiration, longing to divide with you that independency which your gallantry has given, and those riches which your wounds have preserved? Is this the case? or is it rather a country that tramples on your rights, disdains your cries, and insults your distresses? Have you not more than once suggested your wishes, and made known your wants to Congress?—wants and wishes which gratitude and policy should have anticipated rather than evaded; and have you not lately, in the meek language of entreating memorials, begged from their justice what you could no longer expect from their favor? How have you been answered? Let the letter which you are called to consider to-morrow reply.

If this, then, be your treatment, while the swords you wear are necessary for the defence of America, what have you to expect from peace, when your voice shall sink, and your strength dissipate by division?—when those very swords, the instruments and companions of your glory, shall be taken from your sides, and no remaining mark of military distinction be left but your

wants, infirmities, and sears? Can you, then, consent to be the only sufferers by this Revolution, and, retiring from the field, grow old in poverty, wretchedness, and contempt? Can you consent to wade through the vile mire of dependency, and owe the miserable remnant of that life to charity which has hitherto been spent in honor? If you can, go—and carry with you the jest of Tories and the scorn of Whigs; the ridicule, and, what is worse, the pity of the world. Go—starve, and be forgotten! But if your spirit should revolt at this; if you have sense enough to discover, and spirit enough to oppose tyranny under whatever garb it may assume; whether it be the plain coat of republicanism, or the splendid robe of royalty; if you have not yet learned to discriminate between a people and a cause, between men and principles—awake; attend to your situation, and redress yourselves. If the present moment be lost, every future effort is in vain; and your threats then, will be as empty as your entreaties now.

I would advise you, therefore, to come to some final opinion on what you can bear, and what you will suffer. If your determination be in any proportion to your wrongs, carry your appeal from the justice, to the fears of government. Change the milk-and-water style of your last memorial; assume a bolder tone—decent, but lively, spirited and determined, and suspect the man who would advise to more moderation and longer forbearance. Let two or three men who can feel as well as write, be appointed to draw up your *last remonstrance*; for I would no longer give it the suing, soft, unsuccessful epithet of memorial. Let it be represented in language that will neither dishonor you by its rudeness, nor betray you by its fears, what has been promised by Congress, and what has been performed—how long and how patiently you have suffered—how little you have asked, and how much of that little has been denied. Tell them that, though you were the first, and would wish to be the last to encounter danger, though despair itself can never drive you into dishonor, it may drive you from the field; the wound often irritated, and never healed, may at length become incurable; and that the slightest mark of indignity from Congress now must operate like the grave, and part you forever; that in any political event, the army has its alternative. If peace, that nothing shall separate you from your arms but death; if war, that, courting the auspices and inviting the directions of your illustrious leader, you will retire to some unsettled country, smile in your turn, and “mock when

their fear cometh." But let it represent, also that should they comply with the request of your late memorial, it would make you more happy, and them more respectable; that while war should continue, you would follow their standard

into the field, and when it came to an end, you would withdraw into the shade of private life, and give the world another subject of wonder and applause; an army victorious over its enemies — victorious over itself.

II. WASHINGTON'S ADDRESS TO THE OFFICERS OF THE ARMY.

GENTLEMEN: By an anonymous summons, an attempt has been made to convene you together. How inconsistent with the rules of propriety, how unmilitary, and how subversive of all order and discipline, let the good sense of the army decide.

In the moment of this summons, another anonymous production was sent into circulation, addressed more to the feelings and passions than to the judgment of the army. The author of the piece is entitled to much credit for the goodness of his pen; and I could wish he had as much credit for the rectitude of his heart; for, as men see through different optics, and are induced by the reflecting faculties of the mind to use different means to attain the same end, the author of the address should have had more charity than to "mark for suspicion the man who should recommend moderation and longer forbearance;" or, in other words, who should not think as he thinks, and act as he advises. But he had another plan in view, in which candor and liberality of sentiment, regard to justice and love of country, have no part; and he was right to insinuate the darkest suspicion to effect the blackest design. That the address was drawn with great art, and is designed to answer the most insidious purposes; that it is calculated to impress the mind with an idea of premeditated injustice in the sovereign power of the United States, and rouse all those resentments which must unavoidably flow from such a belief; that the secret mover of this scheme, whoever he may be, intended to take advantage of the passions, while they were warmed by the recollection of past distresses, without giving time to cool, deliberative thinking, and that composure of mind which is so necessary to give dignity and stability to measures, is rendered too obvious, by the mode of conducting the business, to need other proof than a reference to the proceedings.

Thus much, gentlemen, I have thought it incumbent on me to observe to you, to show on what principles I opposed the irregular and hasty meeting which was proposed to have been held on Tuesday last, and not because I wanted a disposition to give you every opportunity, consistently with your own honor and the dignity of the army, to make known your grievances. If

my conduct heretofore has not evinced to you that I have been a faithful friend of the army, my declaration of it at this time would be equally unavailing and improper. But as I was among the first who embarked in the cause of our common country; as I have never left your side one moment, but when called from you on public duty; as I have been the constant companion and witness of your distresses, and not among the last to feel and acknowledge your merits; as I have ever considered my own military reputation as inseparably connected with that of the army; as my heart has ever expanded with joy when I have heard its praises, and my indignation has arisen when the mouth of detraction has been opened against it; it can scarcely be supposed at this last stage of the war that I am indifferent to its interests. But how are they to be promoted? The way is plain, says the anonymous addresser: "If war continues, remove into the unsettled country, there establish yourselves, and leave an ungrateful country to defend itself!" But who are they to defend?—our wives, our children, our farms and other property which we leave behind us? or in this state of hostile separation, are we to take the two first—the latter cannot be removed—to perish in a wilderness, with hunger, cold and nakedness?

"If peace takes place, never sheathe your swords," says he, "till you have obtained full and ample justice." This dreadful alternative of either deserting our country in the extremest hour of her distress, or turning our arms against it, which is the apparent object, unless Congress can be compelled into instant compliance, has something so shocking in it, that humanity revolts at the idea. My God! what can this writer have in view, by recommending such measures? Can he be a friend to the army? Can he be a friend to this country? Rather, is he not an insidious foe—some emissary, perhaps, from New York—plotting the ruin of both, by sowing the seeds of discord and separation between the civil and military powers of the continent? And what a compliment does he pay our understandings, when he recommends measures, in either alternative, impracticable in their nature? But here, gentlemen, I will drop the curtain, because

it would be as imprudent in me to assign my reasons for this opinion, as it would be insulting to your conception to suppose you stood in need of them. A moment's reflection will convince every dispassionate mind of the physical impossibility of carrying either proposal into execution. There might, gentlemen, be an impropriety in my taking notice, in this address to you, of an anonymous production; but the manner in which this performance has been introduced to the army; the effect it was intended to have, together with some other circumstances, will amply justify my observations on the tendency of this writing.

With respect to the advice given by the author, to suspect the man who shall recommend moderate measures and longer forbearance, I spurn it, as every man who regards that liberty and reveres that justice for which we contend, undoubtedly must; for if men are to be precluded from offering their sentiments on a matter which may involve the most serious and alarming consequences that can invite the consideration of mankind, reason is of no use to us. The freedom of speech may be taken away, and, dumb and silent, we may be led, like sheep to the slaughter. I cannot in justice to my own belief, and what I have great reason to conceive is the intention of Congress, conclude this address without giving it as my decided opinion, that that honorable body entertain exalted sentiments of the services of the army, and, from a full conviction of its merits and sufferings, will do it complete justice. That their endeavors to discover and establish funds for this purpose have been unwearied, and will not cease till they have succeeded, I have not a doubt.

But, like all other large bodies, where there is a variety of different interests to reconcile, their determinations are slow. Why then should we distrust them? and in consequence of this distrust, adopt measures which may cast a shade over that glory which has been so justly acquired, and tarnish the reputation of an army which is celebrated through all Europe for its fortitude and patriotism? And for what is this done? — to bring the object we seek nearer? No; most certainly, in my opinion, it will cast it at a greater distance. For myself, (and I take no merit in giving the assurance, being induced to it from principles of gratitude, veracity, and justice, and a grateful sense of the confidence you have ever placed in me) a recollection of the cheerful assist-

ance and prompt obedience I have experienced from you, under every vicissitude of fortune, and the sincere affection I feel for an army I have so long had the honor to command, will oblige me to declare, in this public and solemn manner that in the attainment of complete justice for all your trials and dangers, and in the gratification of every wish, so far as may be done consistently with the great duty I owe my country, and those powers we are bound to respect, you may freely command my services to the utmost extent of my abilities.

While I give you these assurances, and pledge myself, in the most unequivocal manner, to exert whatever abilities I am possessed of in your favor, let me entreat you, gentlemen, on your part, not to take any measures which, viewed in the calm light of reason, will lessen the dignity and sully the glory you have hitherto maintained. Let me request you to rely on the plighted faith of your country, and place a full confidence in the purity of the intentions of Congress; that, previous to your dissolution as an army, they will cause all your accounts to be fairly liquidated, as directed in the resolutions which were published to you two days ago; and that they will adopt the most effectual measures in their power to render ample justice to you for your faithful and meritorious services. And let me conjure you, in the name of our common country, as you value your own sacred honor; as you respect the rights of humanity; and as you regard the military and national character of America; to express your utmost horror and detestation of the man who wishes, under any specious pretences, to overturn the liberties of our country; and who wickedly attempts to open the flood-gates of civil discord, and deluge our rising empire in blood.

By thus determining, and thus acting, you will pursue the plain and direct road to the attainment of your wishes; you will defeat the insidious designs of our enemies, who are compelled to resort from open force to secret artifice. You will give one more distinguished proof of unexampled patriotism and patient virtue, rising superior to the pressure of the most complicated sufferings; and you will, by the dignity of your conduct, afford occasion for posterity to say, when speaking of the glorious example you have exhibited to mankind, "Had this day been wanting, the world had never seen the last stage of perfection to which human nature is capable of attaining."

CHAPTER XXXIII.

1782-1783.

PEACE CONCLUDED.

Early efforts for Peace — Lord Chatham's Speech — North's ministry resigns — Rockingham becomes Secretary of the Treasury and Shelburne Secretary of State — General Carleton arrives in New York — Dispute between Fox and Shelburne — Ministers appointed by Congress to various countries — The position of France — Oswald's conference with Franklin — The latter's suggestion — Oswald forced to secure revised commission — Jay's suspicion of Vergennes — Marbois' letter — Rayneval's mission — Vergennes' complaint of course adopted by the Americans — Franklin's answer — The negotiations and final conclusion of treaty — Preliminaries signed — Satisfaction created by news of treaty — Independence of United States acknowledged by various countries — The definitive treaty of peace.

The repeated defeats of the British in America had caused amazement and consternation in England. The first successes of the war had elated the ministry, and it was believed that the war would be of short duration. Cornwallis' surrender, however, had convinced the ministry that the United States could not be subdued by force, and that the Americans were bound to secure independence no matter how long it required. The ministry therefore came to the conclusion that the contest was as unprofitable as it was hopeless of any good result.

After Burgoyne's surrender the British ministry made various indirect advances to Franklin through correspondence of his old friends in London and by secret visits to him.* But as these overtures had for their object the separation of America from the French alliance and a reconciliation between the colonies and the Mother

Country,* they came to naught as neither condition could be accepted. The king and cabinet had firmly resolved that the colonies should return to British allegiance, and the most devoted friends of America in England fondly cherished the hope that such would be the case. Even Lord Chatham had said:

"My Lords, I rejoice that the grave has not closed upon me, that I am still alive to lift up my voice against the dismemberment of this ancient and most noble monarchy. * * * Where is the man that will dare advise such a measure? * * * Shall this kingdom, that has survived whole and entire the Danish depredations, the Scottish inroads, and the Norman conquests, that has stood the threatened invasion of the Spanish Armada, now fall prostrate before the House of Bourbon? Surely, my Lords, this nation is no longer what it was. Shall such a people that seventeen years ago was the terror of the world, now stoop so low as to tell its ancient, inveterate enemy — take all we have, only give us peace? It is impossible."

But Chatham's eloquence could not obscure the fact that peace was a

* Moore, *American Diplomacy*, p. 25; John Adams, *Works*, vol. iii., pp. 177-181.

* See the letters of John Adams to the President of Congress, and others in his *Works*, vol. vii., pp. 180-186, 236 *et seq.*, 253, 339-341, 417-419, 427-430, 433-434, 436-439, 440, 441-443, 444-445, 446-450, 450-452, 453-455, 550, 570.

necessity to England — with three of the greatest powers of the age in Europe and her most populous colonies in arms against her and with all the European nations unfriendly. The Russian and Austrian courts interposed to bring about a general peace, but the British ministry could not relinquish the hope of detaching the United States from the general negotiations.*

On November 27, 1781, Parliament convened, and in his speech from the throne the king urged that the war be prosecuted with renewed vigor.† The answers of both houses were in accord with the spirit displayed by the king, but the debates were very animated, and the feeling throughout the country clearly pointed against the continuance of the war. On February 22, 1782, after the recess, General Conway introduced a resolution against the further prosecution of the war in America.‡ On that day the motion was lost by a single vote, but

when it was taken under consideration again a few days later it was carried and the address was sent to the king.* On March 4, the Commons resolved "that the House would consider as enemies to his majesty and the country, all those who should advise, or attempt the further prosecution of an offensive war on the continent of North America." Consequently, as the country seemed to have lost confidence in the ministry, Lord North and his associates resigned their offices on the 20th.† With Lord North's resignation disappeared all purpose of conquering the colonies and all hope of maintaining in its impurities the personal and arbitrary government of George III.‡ Though the king hated the Whig party, of whom the Marquis of Rockingham was the leader, he was finally compelled to accept a new administration headed by Rockingham as Secretary of the Treasury.|| Lord Shelburne was appointed Secretary of State for the home and colonial departments, and Charles

* Foster, *A Century of American Diplomacy*, pp. 53-54.

† Fisher, *Struggle for American Independence*, vol. ii., pp. 507-508.

‡ The last day of the year 1781 witnessed the release of Henry Laurens from the Tower of London. He had been incarcerated early in October, 1780, and was treated with great injustice and harshness. Various efforts were made to induce him to yield, but he steadfastly resisted them all. The "long and painful farce," as Dr. Ramsey calls it, ended with Laurens' unconditional release. See *A Narrative of the Capture of Henry Laurens, of His Confinement in the Tower of London, and So Forth, 1780, 1781, 1782*, in *Collections of the South Carolina Historical Society*, vol. i., pp. 18-68, and the documents, letters, etc., in same, pp. 69-83.

* Bancroft, vol. v., p. 530; Parton, *Life of Franklin*, vol. ii., pp. 452-453.

† Bancroft, p. 531; Fisher, *Struggle for American Independence*, vol. ii., pp. 512-513.

‡ W. B. Donne, *Correspondence of King George III. with Lord North 1768-1783*, vol. ii., pp. 393-398.

|| Albemarle (George Thomas, Earl of), *Memoirs of the Marquis of Rockingham*, vol. ii., pp. 451-464; Hale, *Franklin in France*, vol. ii., p. 48; Bancroft, vol. v., pp. 532-534; Donne, *Correspondence of George III. with Lord North*, vol. ii., p. 415.

James Fox became Secretary of State for foreign affairs.*

One of the first measures of the new administration was to appoint Sir Guy Carleton commander-in-chief of the British forces in America in the place of Sir Henry Clinton and to authorize Admiral Digby and Carleton to negotiate for peace. One of the objects in making these appointments was to secure from Congress an agreement for peace separate from their allies. Early in May, Carleton arrived in New York, and, informing Washington of the new powers conferred upon him, requested a passport for his secretary so that he might present the dispatches of the ministry to Congress. Washington immediately forwarded the communication to Congress, but at that time the bill enabling the king to conclude peace with America had not become a law. Moreover, as there was no positive assurance that the commissioners had power to grant any other terms than those which had already been rejected; as Congress suspected that this move was simply a ruse to gain time; and as it was resolved not to enter into any treaties without the consent of the allies, the passport was refused.†

Fox and Shelburne were incompat-

ible in temperament and each was suspicious of the other, the one fearing that the other would assume authority in matters pertaining to his department. Thus they dissented on the manner in which the colonies should be treated in the future negotiations for peace. Fox claimed that on May 23 the cabinet had adopted a minute which practically recognized America as independent, and therefore, if the American commissioners represented an independent country, the negotiations would naturally fall under his (Fox's) jurisdiction. Shelburne, however, disagreed with Fox's construction of the minute and claimed that the colonies could not be independent until after the treaty of peace; therefore the negotiations properly came into his department. The dispute was soon settled, for on July 1, 1782, Rockingham died and was succeeded by Shelburne. Fox immediately resigned.* Shelburne was in perfect accord with the king's determination to prevent an open and absolute recognition of American independence.†

* McLaughlin, *The Confederation and the Constitution*, pp. 5-6.

† Fisher, *Struggle for American Independence*, vol. ii., p. 533. Dr. Franklin left upon one of his papers the following memorandum: "Immediately after the death of Lord Rockingham, the king said to Lord Shelburne, 'I will be plain with you, the point next to my heart, and which I am determined, be the consequence what it may, never to relinquish but with my crown and life, is to prevent a total, unequivocal recognition of the independence of America. Promise to support me on this ground, and I will leave you unmolested on every other, and with full power as the prime minister of the kingdom.'"

* Andrew C. McLaughlin, *The Confederation and the Constitution*, p. 5.

† Fisher, *Struggle for American Independence*, vol. ii., p. 524. See also Ford's ed. of Washington's *Writings*, vol. x., pp. 2, 6, 8-11, 30; Gordon, *American Revolution*, vol. iv., pp. 291-294 (ed. 1788).

Congress had already made preparations for peace. John Adams had been appointed commissioner a long time previous,* but as his business soon involved him in difficulties with Vergennes, four additional commissioners were appointed: Franklin, Jay, Henry Laurens and Jefferson.† Upon the shoulders of Franklin and Jay rested the chief responsibility of negotiating a peace treaty, and their principal fear was that France would feel offended if negotiations with England were conducted independently. For some time France had sustained the war in America both by money and troops, and she was practically the head of the Armed Neutrality which was formed to fight England. Vergennes therefore feared that the machine which he had organized in opposition to England would crumble to pieces upon the conclusion of the war and that France would gain nothing for her share in bringing independence to America, except ruined finances and the qualified friendship of America. Spain

* For the overtures to Adams from the English ministry see John Adams, *Works*, vol. i., p. 355 *et seq.*

† *Secret Journal of Congress*, June 13, 14, 1781; John Adams, *Works*, vol. vii., p. 486. Jefferson, however, never left America (Ford's ed. of *Jefferson's Writings*, vol. i., p. 72, vol. iii., pp. 49-50, 307-309, 310-314, 315-316); at the time of his appointment Laurens was a prisoner in London; and Adams did not arrive at Paris until October, being busy negotiating a treaty at The Hague. Neither Adams or Laurens therefore took a prominent part in the earlier negotiations. For some time Jay had been in Spain seeking acknowledgment of independence and also a loan and did not arrive in Paris until June 23.

was only eager to acquire territory for herself, which was the chief motive impelling her to enter the alliance. Being anxious that the American commissioners should not leave France in the lurch by making an independent treaty, the French envoy in America induced Congress to instruct the commissioners that they should "make the most candid and confidential communications upon all subjects to the ministers of our general ally, the King of France; to undertake nothing in the negotiations for peace or truce without their knowledge and concurrence, and ultimately to govern [themselves] by their advice and opinion."*

In the meantime, shortly after the new ministry assumed office in England, Richard Oswald was sent to France to sound the court and also Franklin on the subject of peace.† In April Oswald went to Paris, and shortly afterward was followed by Thomas Grenville, who consulted with Vergennes regarding preliminaries for a general peace between the belligerent powers.‡ During the negotiations the British court acted with a sort of sullen acquiescence in results which they had not the power

* *Secret Journals of Congress*, June 15, 1781; Wharton, *Diplomatic Correspondence of the Revolution*, vol. iv., p. 505; Pellew, *John Jay*, pp. 144-163.

† Parton, *Life of Franklin*, vol. ii., p. 456; Foster, *Century of American Diplomacy*, pp. 54, 57; John Adams, *Works*, vol. i., p. 358.

‡ Hale, *Franklin in France*, vol. ii., p. 54 *et seq.*; Fiske, *Critical Period of American History*, pp. 12-13; John Adams, *Works*, vol. i., p. 359.

to prevent, and they endeavored to perplex the negotiations as much as possible by interposing annoying difficulties, etc.; they also endeavored to deprive the United States of every advantage which could be wrested from them.* Vergennes informed Oswald that the French court were ready to treat for peace, but could do nothing without the consent of all the allies. He also expressed the desire that Paris be the meeting-place.

When Oswald opened negotiations with Franklin, the latter suggested that England relinquish Canada of her own accord,† but Shelburne informed Oswald that under no conditions would reparation be made; he furthermore said that “no independence [would] be acknowledged without their [the loyalists] being taken care of.” Oswald was instructed to insist upon the payment of all debts due English subjects and the restoration of the Loyalists to the full enjoyment of all their rights and privileges. Moreover, the English territory was to extend as far as the Penobscot.‡ These subjects furnished the main topics to be discussed in the

peace negotiations, the Newfoundland fishery dispute being added subsequently. On April 18 Oswald went back to London, and on May 4 returned to Paris with the assent of the British cabinet to treat of a general peace, the meetings to take place at Paris. He was authorized to treat with the commissioners of the “colonies or plantations,” and to conclude with “any person or persons whatsoever, a peace or truce with the said colonies or plantations.”*

Jay did not think Oswald’s commission suitable, for the United States had long since ceased to be colonies or plantations, but Franklin considered the commission satisfactory, and Vergennes agreed with him. Adams’ opinion coincided with Jay’s. The attitude of Vergennes in this matter did not in the least please Jay, who suspected that France intended to make every possible use of America and then cast her off in favor of Spain.† Referring to the arguments advanced by Vergennes, Jay said in a letter: “Neither of these considerations had weight with me; for as to the first, I could not conceive of any event which would render it proper, and therefore possible, for America to treat in any other character than as an independent nation; and as to the

* On the negotiations leading up to England’s consent to arbitrate, see Baneroft, vol. v., pp. 461-475, 525-544, and on the final negotiations, see pp. 545-553, 562-581. See also J. B. Moore, *International Arbitrations*, vol. i., chaps. i.-vi.

† Wharton, *Diplomatic Correspondence of the Revolution*, vol. v., p. 541; Fitzmaurice, *Life of Shelburne*, vol. iii., pp. 243-244; Pellew, *John Jay*, p. 173.

‡ Lord Fitzmaurice, *Life of William, Earl of Shelburne*, vol. iii., pp. 188-189; Fisher, *Struggle for American Independence*, vol. ii., p. 537.

* Hale, *Franklin in France*, vol. ii., p. 50; Fisher, *Struggle for American Independence*, vol. ii., p. 536 *et seq.*; Fitzmaurice, *Life of Shelburne*, vol. iii., p. 249; John Adams, *Works*, vol. vii., pp. 632, 641.

† Parton, *Life of Franklin*, vol. ii., p. 480 *et seq.*; Pellew, *John Jay*, pp. 175-181.

second, I could not believe Congress intended we should follow any advice which might be repugnant to their dignity and interest."* He therefore insisted that Oswald secure a new commission, and, as Franklin now yielded his assent to Jay's demand, Oswald was forced to comply before the Americans would begin the formal negotiations.† Franklin was inclined to take the view of Vergennes that Jay was insisting on too fine points and that his scruples were needless, but Jay disliked the least appearance of subserviency to France, saying: "Let us be honest and grateful to France, but let us think for ourselves. * * * Since we have assumed a place in the political firmament, let us move like a primary and not a secondary planet."‡

* Wharton, *Diplomatic Correspondence of the Revolution*, vol. vi., p. 20; Pellew, *John Jay*, pp. 181-183.

† Morse, *Life of Franklin*, p. 367 *et seq.*; John Adams, *Works*, vol. i., pp. 365-367; vol. iii., pp. 299, 301, vol. vii., pp. 606-607, 610, 660-663, 665. See also Oswald's journal as quoted by Hale, *Franklin in France*, vol. ii., p. 107 *et seq.*; Fisher, *Struggle for American Independence*, vol. ii., pp. 538-540; Foster, *Century of American Diplomacy*, pp. 73-74.

‡ See also Adams' letter of October 31, 1782, to Livingston, in Adams' *Works*, vol. vii., p. 653. Gouverneur Morris fiercely resented such servile subserviency, and in a letter to Jay denounced Congress with considerable warmth, saying: "That the proud should prostitute the very little dignity this poor country is possessed of would be indeed astounding, if we did not know the near alliance between pride and meanness. Men who have too little spirit to demand of their constituents that they do their duty, who have sufficient humility to beg a paltry pittance at the hands of any and every sovereign,—such men will always be ready

At this juncture Jay came into possession of a letter written by Marbois, secretary of the French legation in America, to Vergennes which tended to confirm his suspicion of the French court. The letter criticized the United States in general, and in particular the opposition of Samuel Adams to any treaty which did not assure to the States the right to the Newfoundland fisheries.* Jay now felt certain that France intended not only to prevent America from obtaining a share in the fisheries but also to limit westward extension, and that Vergennes was playing double between Spain and the United States. He knew Spain desired to exclude the Americans from the Gulf of Mexico, and to do this she must keep the States from acquiring territory, and confine them to the region east of the summits of the Appalachian Mountains.† Gérard Rayneval, one of Vergennes' secretaries, now approached Jay on the subject of the boundaries, saying that America was presumptuous in laying claim to the West. He said the American demands were ill-founded and should be materially curtailed.‡ He subsequently sent to Jay a memoir

to pay the price which vanity shall demand from the vain."—See Roosevelt, *Gouverneur Morris*, p. 120.

* Wharton, *Diplomatic Correspondence of the Revolution*, vol. v., pp. 238-241; John Adams, *Works*, vol. i., p. 368; Parton, *Life of Franklin*, vol. ii., p. 483; Pellew, *John Jay*, pp. 188-189.

† McLaughlin, *The Confederation and the Constitution*, p. 14.

‡ John Adams, *Works*, vol. i., p. 373.

in which he urged that Spain and the United States compromise their claims. He proposed a western limit to American territory which would have cut off the whole Mississippi Valley.* The land south of the Ohio was to be divided into two parts, the United States having an undefined control over the eastern portion, which did not even extend to the Mississippi, while over the land north of the Ohio, Spain was to have no jurisdiction. From the tenor of the memoir Jay came to the conclusion that France intended to see that Spain obtained all the land she desired and that England might have the residue.† Regarding the navigation of the Mississippi and the western territory the American commissioners had been instructed that it was not necessary to insist upon the right to use the river, nor to demand title to the West,‡ but Jay, convinced of the insincerity of France, determined that we should have this right.

Jay now learned that Rayneval had secretly gone to England, and believing that the object of his visit was to

influence Shelburne against America on all the points at issue* he sent Benjamin Vaughan, a friend of Franklin, to England to counteract this adverse influence and to persuade the British cabinet that they could without any scruples negotiate with America alone.† Jay said that the commissioners were fully determined to live up to the letter of the treaty between the United States and France, but that they were not bound to follow whatever construction the French court might place upon that treaty.‡

As the result of Jay's determina-

* Jay, *Correspondence and Public Papers*, vol. ii., p. 402. In a measure Jay was mistaken about this, for this was not the avowed object of the visit. He was instructed to ascertain if Shelburne's letter regarding peace was to be taken seriously, but at the same time he did not hesitate to speak disparagingly concerning the Americans. Pellew, *John Jay*, pp. 193-195; Fitzmaurice, *Life of Shelburne*, vol. iii., pp. 263-268; Wharton, *Diplomatic Correspondence of the Revolution*, vol. v., p. 821; Sparks, *Diplomatic Correspondence of the Revolution*, vol. viii., p. 209; Foster, *Century of American Diplomacy*, pp. 61-62; John Adams, *Works*, vol. i., pp. 368-370, vol. iii., p. 308. See however, Rayneval's letter to Monroe, quoted in Madison's *Works* (Congress ed.), vol. iii., pp. 462-470.

† Pellew, *John Jay*, pp. 191-192. In writing to Livingston, Secretary of Foreign Affairs of Congress, Jay said: "It would have relieved me from much anxiety and uneasiness to have concerted all these steps with Dr. Franklin, but in conversing with him about M. Rayneval's journey, he did not concur with me in sentiment respecting the object of it, but appeared to me to have great confidence in this court and to be much embarrassed and constrained by our instructions."—Wharton, *Diplomatic Correspondence of the Revolution*, vol. vi., p. 32.

‡ Jay, *Correspondence and Public Papers*, vol. ii., pp. 405, 407; Fiske, *Critical Period of American History*, pp. 21-22.

* Jay, *Correspondence and Public Papers* (Johnston's ed.), vol. ii., pp. 394-398; Rayneval, *Idea on the Manner of Determining and Fixing the Limits between Spain and the United States on the Ohio and on the Mississippi*, in the *Secret Journals of Congress*, vol. iv., pp. 74-80.

† Jay, *Correspondence and Public Papers*, p. 398. For maps showing the boundaries of the United States, Canada and the Spanish possessions as proposed by France, see Foster, *A Century of American Diplomacy*, p. 60; Ogg, *Opening of the Mississippi*, p. 394.

‡ Wharton, *Diplomatic Correspondence of the Revolution*, vol. v., pp. 476-477.

tion in this matter, the negotiations proceeded along the lines he indicated, and the provisional articles were agreed upon without consulting the French court. Mr. Adams was in hearty accord with Jay,* and finally Franklin took sides with the other two.† While the commissioners violated their instructions for which there were numbers at home to censure them, still it can be asserted that what they did was perfectly right under the circumstances, and in the end the best they could do to serve their country's interest.‡

Vergennes complained of the conduct of the American commissioners in a note to Franklin, saying: "I am at a loss to explain your conduct and that of your colleague on this occasion. You have concluded your preliminary articles without any communication between us, although the instructions from Congress prescribe that nothing shall be done without the participation of the king.

* * * You are wise and discreet,

* For Adam's views regarding the course of the French court, see John Adams, *Works*, vol. i., pp. 392-395.

† John Adams, *Works*, vol. iii., p. 336.

‡ Morse, *Life of Franklin*, p. 373; Hale, *Franklin in France*, vol. ii., pp. 84-85, 125 *et seq.*; John Adams, *Works*, vol. i., pp. 340-342, 363-376, vol. viii., pp. 86-89; Wharton, *Diplomatic Correspondence*, vol. i., Introduction, §§ 109-111; Winsor, *Narrative and Critical History*, vol. vii., chap. ii.; Prescott, *Diplomacy of the United States*, vol. i., pp. 100-106, 118-128; Wheaton, *International Law* (ed. Dana), §§ 257-262; Hall, *International Law* (4th ed.), p. 347; Lecky, *England in the Eighteenth Century*, vol. iv., pp. 255-264.

Sir; you have all your life performed your duties. I pray you to consider how you propose to fulfill those which are due to the king."* Franklin was requested by the other commissioners to make reply in behalf of all. In answer therefore, he said: "Nothing has been agreed, in the preliminaries, contrary to the interests of France, and no peace is to take place between us and England till you have concluded yours. Your observation is, however, apparently just — that in not consulting you before they were signed, we have been guilty of neglecting a point of *bienséance*. But as this was not from want of respect for the king, whom we all love and honor, we hope it will be excused, and that the great work which has hitherto been so happily conducted, which is so nearly brought to perfection, and is so glorious to his reign, will not be ruined by a single indiscretion of ours."†

In a letter to Luzerne, the French minister in America, Vergennes speaks of this subject and says that Franklin's apology very much softened the displeasure of the French court.‡ He says: "I blame no one,

* Wharton, *Diplomatic Correspondence of the Revolution*, vol. vi., p. 140. See also the letter to Franklin, in Morse, *Life of Franklin*, p. 379.

† Wharton, *Diplomatic Correspondence of the Revolution*, vol. vi., p. 144. Moore says that no paper ever written by Franklin more advantageously displays his marvelous skill than his reply to these reproaches.—*American Diplomacy*, p. 31.

‡ Parton, *Life of Franklin*, vol. ii., p. 501 *et*

not even Dr. Franklin. He has yielded too easily to the bias of his colleagues, who do not pretend to recognize the rules of courtesy in regard to us. * * * If we may judge of the future from what has passed here under our eyes, we shall be poorly paid for all that we have done for the United States and for securing for them a national existence.”* Under the circumstances it was not unnatural that the American commissioners should be suspicious of France, particularly as the British envoys endeavored by insinuation, innuendo, and otherwise to excite jealousy between the Americans and the French as to the ulterior plans and purposes of the latter. Adams said: “There is nothing that humbles and depresses, nothing that shackles and confines, in short, nothing that renders totally useless all your ministers in Europe, so much as these positive instructions to consult and communicate with French ministers upon all occasions, and to follow their advice. And I really think it would be better to constitute the Count de Vergennes our sole minister, and give him full powers to make peace and treat with all Europe, than to continue any of us

in the service under the instructions in being, if they are to be understood in that unlimited sense which some persons contend for.”* However, Jay’s stand in the matter would seem to be justified, as he was there to conserve the interests of the United States alone. Sparks says: “The French court, from first to last, adhered faithfully to the terms of the alliance, not that they had any special partiality for the Americans, or were moved by the mere impulse of good will and friendship, unmixed with motives of interest. Why should this be expected? When was entire disinterestedness ever known to characterize the intercourse between nations? But no fact in the history of the American Revolution is more clearly demonstrable, than that the French government, in their relations with the United States, during the war, and at the peace, maintained strictly their honor and fidelity to their engagements; nay more, that they acted a generous, and in some instances, a magnanimous part.”†

Undoubtedly Jay greatly aided the

* John Adams, *Works*, vol. viii., pp. 12-13.

† Sparks, *Life of Franklin*, p. 495. See also McLaughlin, *The Confederation and the Constitution*, p. 18 *et seq.*; Pitkin, *Political and Civil History of the United States*, vol. ii., pp. 123-152; Pellet, *John Jay*, pp. 204-207; Jay, *Life of John Jay*, vol. i., p. 133 *et seq.*; George W. Green, *The Diplomacy of the Revolution*, in *Atlantic Monthly*, vol. xv., p. 576; John Adams, *Works*, vol. i., pp. 354-399. As to its effects on the Northwest see Moore, *The Northwest under Three Flags*, p. 279 *et seq.*, and authorities cited.

seq.; Sparks, *Life of Franklin*, p. 490; Morse, *Life of Franklin*, pp. 380-382. See also the various letters of Vergennes in Hale, *Franklin in France*, vol. ii., pp. 149-159, 195-197.

* Wharton, *Diplomatic Correspondence of the Revolution*, vol. vi., p. 152. See also Franklin’s letter accompanying the reply of the commissioners to the censure upon their actions, in *ibid.*, vol. vi., p. 581.

cause by his exhibition of firmness regarding the minutest technicalities, but it hardly seems possible that France, considering her former conduct, would have gone back on the United States entirely. The conclusions reached by various historians depend upon the manner in which they interpret the personal conduct of the various principals in the negotiations.* France was not pouring out her money and the blood of her soldiers for the pleasure of it. Since 1782 she had practically borne the greater part of the burden of the war against England, and simply because she did not desire that America should conduct her negotiations separately from the other allies is not sufficient ground for saying that she was playing false to America. America was only one of the allies

* C. F. Adams says: "The great diplomatists, without exception, proceed upon one maxim, which is, to advance their own country in power, regardless, if not at the cost, of every other. * * * The notion that the ministers of Louis the Sixteenth, who had grown gray in the service of this system, in taking the course which they did towards America, could have been actuated by any other than the accepted ideas of their day, or that they shared in the enthusiasm generated in the hearts of the French nation by the sight of brave men struggling for liberty against power, seems entirely out of keeping with any thing that previously happened in their lives, or that marked the rest of their career. * * * The ideas of Count de Vergennes had never swerved from the doctrine of his time, which was to maintain France as the centre around which the various European powers were to be kept moving in their respective orbits."—John Adams, *Works*, vol. i., p. 303. "Generosity of spirit or sympathy with liberty was not even thought of. It was the cry of vengeance from France, humiliated by the domineering Anglicism of William Pitt."—*Ibid*, p. 309.

included in a general war with England, and France had equally good reason for suspecting that if the United States conducted separate negotiations she would obtain as much as possible, regardless of the interests of the other combatants. Still, there are equally good grounds for suspecting that if France had supervised the negotiations between England and the United States, the treaty would not have been as advantageous as it was.* Writing to Livingston July 10, 1783, Adams says: "But if by confidence in the French Court is meant an opinion, that the French office of foreign affairs would be advocates with the English for our rights to the fisheries, or to the Mississippi River, or our western territory, or advocates to persuade the British ministers to give up the cause of the refugees, and make parliamentary provision for them, I own I have no such confidence, and never had. Seeing and

* See also Foster, *Century of American Diplomacy*, p. 77 *et seq.* When Adams received Livingston's letter of censure on the action of the commissioners in disregarding the French court, he said: "I am weary, disgusted, affronted and disappointed. * * * I have been injured and my country has joined in the injury; it has basely prostituted its own honor by sacrificing mine. But the sacrifice of me was not so servile and intolerable as putting us all under guardianship. Congress surrendered their own sovereignty into the hands of a French minister. Blush! blush! ye guilty records! blush and perish! It is glory to have broken such infamous orders. Infamous, I say, for so they will be to all posterity. How can such a stain be washed out? Can we cast a veil over it and forget it?"—John Adams, *Works*, vol. iii., p. 359. See also vol. viii., pp. 11-13.

hearing what I have seen and heard, I must have been an idiot to have entertained such confidence; I should be more of a Machiavelian, or a Jesuit, than I ever was or will be, to counterfeit it to you or to Congress.' '*

In October, shortly after the arrival of Oswald's revised commission, Jay submitted to Oswald a scheme for a treaty,† which was accepted by Oswald and sent to London for acceptance by the ministry.‡ As defined by this plan, the northern boundary line was to run from the intersection of the 45th degree of N. Lat. with the St. Lawrence, to the south end of Lake Nipissing, and thence to the sources of the Mississippi, thus including much of what is now Canada; the western boundary was the Mississippi. The Americans assured to themselves the right to the fisheries, but on the other hand made no provisions for paying the refugees or repealing the confiscatory laws.¶ The English ministry refused to accept this draft of the treaty, and early in November another scheme was agreed upon by the commissioners and taken to England.§ In drawing up this second

draft, it was due to the tenacity of Adams, who had some time previously arrived on the scene, that the fishery rights were retained in the treaty.* It was agreed in this second treaty that no hindrances should be placed in the way of British creditors in their endeavors to collect debts contracted before 1775, but regarding the Loyalists the American commissioners would only agree that Congress would recommend that the States change their confiscation laws so as to be consistent with justice and equity.† Scarcely any change

* Pellew, *John Jay*, pp. 216-217. See, however, p. 223. In a letter to Secretary Livingston, November 8, 1782, Adams says: "If Mr. Jay and I had yielded the punctilio of rank, and taken the advice of the Count de Vergennes and Dr. Franklin, by treating with the English or Spaniards, before we were put upon the equal footing that our rank demanded, we should have sunk in the minds of the English, French, Spaniards, Dutch, and all the neutral powers. The Count de Vergennes certainly knows this; if he does not, he is not even a European statesman; if he does know it, what inference can we draw, but that he means to keep us down if he can; to keep his hand under our chin to prevent us from drowning, but not to lift our heads out of water? * * * If we conduct ourselves with caution, prudence, moderation, and firmness, we shall succeed in every great point; but if congress or their ministers abroad suffer themselves to be intimidated by threats, slanders, or insinuations, we shall be duped out of the fishery, the Mississippi, much of the western lands, compensation to the Tories, and Penobscot at least, if not Kennebec. This is my solemn opinion, and I will never be answerable to my country, posterity, or my own mind, for the consequences that might happen from concealing it."—John Adams, *Works*, vol. viii., pp. 4-5.

† Franklin said: "Your ministers require that we should receive again into our bosom those who have been our bitterest enemies and restore their properties who have destroyed ours, and thus, while the wounds they have given us are

* John Adams, *Works*, vol. viii., p. 89.

† Wharton, *Diplomatic Correspondence of the Revolution*, vol. v., p. 811.

‡ Pellew, *John Jay*, pp. 200-201.

¶ McLaughlin, *The Confederation and the Constitution*, pp. 24-25. See also Fitzmaurice, *Life of Shelburne*, vol. iii., p. 269 *et seq.*

§ Wharton, *Diplomatic Correspondence*, vol. v., p. 851; Pellew, *John Jay*, pp. 210-212; John Adams, *Works*, vol. i., pp. 377-378.

was made in the northern and eastern boundaries, and the southern boundary continued the same—the 31st degree of N. Lat., from the Mississippi to the Appalachicola. A secret article was also drawn up, agreeing that if Great Britain should desire to retain West Florida at the conclusion of the war, the northern boundary should be a line through the mouth of the Yazoo River, or about 32° 25'.*

This was not entirely acceptable to Shelburne, and as the king was shortly to meet Parliament, Shelburne decided that as favorable a treaty as possible should be presented when Parliament convened.† However, he determined to make one more effort for the Loyalists and the fisheries, but the Americans remained firm in their refusal to compensate the Loyalists and insisted that the United States be given a

still bleeding! It is many years since your nation expelled the Stuarts and their adherents, and confiscated their estates. Much of your resentment against them may by this time be abated; yet, if we should propose it, and insist on it as an article of our treaty with you, that that family should be recalled and the forfeited estates of its friends restored, would you think us serious in our professions of earnestly desiring peace?"—Letter to Oswald, quoted in Parton, *Life of Franklin*, vol. ii., p. 495.

*Wharton, vol. v., pp. 851–853. See also Fisher, *Struggle for American Independence*, vol. ii., pp. 541–545; Gordon, *American Revolution*, vol. iv., pp. 331–341 (ed. 1778); Lecky, *England in the 18th Century*, vol. iv., pp. 252–268; the Works and Letters of Jay, Franklin and Adams; Ogg, *Opening of the Mississippi*, p. 397; Hale, *Franklin in France*, vol. ii., chap. viii.

†Fitzmaurice, *Life of Shelburne*, vol. iii., pp. 287, 298; Pellew, *John Jay*, pp. 214–215.

share in the fisheries.* Finally, as the English saw they could obtain no further concessions, a preliminary treaty was agreed to on November 30, 1782, and signed by the commissioners at Paris,† and early the following year was approved and ratified by Congress.‡ Much was left to be determined by later negotiation, particularly as to boundaries. The northeastern boundary was defined as "a line drawn due north from the source of the Saint Croix River to the Highlands; along the said Highlands which divide these rivers that

*John Adams, *Works*, vol. i., pp. 379–386, vol. iii., p. 327 *et seq.* For the remarks of the commissioners on the various articles see vol. viii., pp. 18–20.

†Beside the works on the peace negotiations previously mentioned, see Wharton, *Digest of International Law*, vol. iii; Sparks, *Diplomatic Correspondence of the American Revolution* (in 12 vols., 1829–1830 and in 6 vols., 1857); Johnston, *The Correspondence and Public Papers of John Jay*, vols. ii. and iii.; John Jay, *The Peace Negotiations of 1782–1783*, in Winsor, *Narrative and Critical History of America*, vol. vii., chap. ii.; Theodore Lyman, *The Diplomacy of the United States*, vol. i., chap. iv.; Foster, *A Century of American Diplomacy*, chap. ii.; John Jay, *The Peace Negotiations of 1782–1783*, in *Papers of the American Historical Association*, vol. iii., pp. 79–100, and *Ibid.*, Count de Vergennes, in *Magazine of American History*, vol. xiii., pp. 31–38; W. E. H. Lecky, *History of England in the Eighteenth Century*, vol. iv.; Lord John Russell, *Life and Times of Charles James Fox* (3 vols., 1859–66); John Adolphus, *History of England from the Accession to the Decease of George III.* (7 vols., 1840–1845). For the designs of France on the Mississippi Valley, see F. J. Turner, *The Policy of France toward the Mississippi Valley in the Period of Washington and Adams*, in *American Historical Review*, vol. x., pp. 249–279.

‡Watson (*Men and Times of the Revolution*, pp. 203–206) gives an interesting account of his being present when the king read his speech in Parliament, December 5, 1782.

empty themselves into the river St. Lawrence, from those which fall into the Atlantic Ocean, to the northwesternmost head of Connecticut River." It was therefore necessary to determine which was the St. Croix River, which Highlands was meant, what rivers fell into the ocean, and to which branch of the Connecticut belonged the northwestern head of the river. The line ran from the Connecticut along the 45th parallel to the St. Lawrence, thence to the Lake of the Woods through the Great Lakes; from the most northwestern point of the Lake of the Woods due west to the Mississippi—down the river to the 31st degree and thence east along the 31st parallel to the ocean. The secret article was also retained.*

On January 20, 1783, the commissioners of France, Great Britain and Spain signed preliminary articles of restoring peace between these countries,† and at the same time the British and American commissioners entered into an agreement regarding the cessation of hostilities in America.‡ On March 23 news of the general peace reached America through the medium of a letter from Lafayette,|| and orders

were immediately issued recalling all armed vessels sailing under the authority of the United States. Shortly afterward, official information was received of the agreement between the commissioners of the United States and Great Britain, and that preliminary articles between France and Great Britain had been ratified. On April 11 Congress issued a proclamation declaring a cessation of hostilities both on sea and land, as agreed upon between the United States and Great Britain, and enjoining all strictly to observe the terms of the agreement.

The news of the treaty created the greatest satisfaction everywhere.* Boudinot said: "It has diffused the sincerest joy throughout these States, and the terms of which must necessarily hand down the names of its American negotiators to posterity with the highest possible honors." Adams wrote to Robert Morris: "I thank you, sir, most affectionately for your kind congratulations on the peace. * * * When I consider the number of nations concerned, the complication of interests, extending all over the globe, the character of actors, the difficulties which attended every step of the progress, * * * I feel too strong a gratitude to heaven for having been conducted safely through the storm, to be very solicitous whether we have the ap-

* McLaughlin, *The Confederation and the Constitution*, pp. 28-29; John Adams, *Works*, vol. viii., pp. 25-26.

† McLaughlin, *The Confederation and the Constitution*, pp. 32-33.

‡ Bancroft, vol. vi., p. 37.

|| Ford's ed. of *Washington's Writings*, vol. x., p. 197.

* John Adams, *Works*, vol. i., p. 396.

probation of mortals or not.”* Vergennes wrote to Luzerne: “The boundaries must have caused astonishment in America. No one could have flattered himself that the English ministers would go beyond the headwaters of the rivers falling into the Atlantic.”† De Aranda, the Spanish ambassador, wrote: “This federal republic is born a pigmy. A day will come when it will be a giant; even a Colossus, formidable to these countries. Liberty of conscience, the facility for establishing a new population on immense lands, as well as the advantages of the new government, will draw thither farmers and artisans from all the nations. In a few years we shall watch with grief the tyrannical existence of this same Colossus.” The Venetian ambassador wrote: “If the union of the American provinces shall continue, they will become by force of time and of the arts, the most formidable power in the world.” How truly they spoke!

The anniversary of the battle of Lexington, April 19, was selected as the day on which the news of the treaty should be proclaimed to the army. On that occasion Washington addressed the army and issued orders that “the chaplains, with the several brigades, render thanks to Almighty God for all his mercies, particularly for his overruling the

wrath of man to his own glory, and causing the rage of war to cease among the nations.”*

On February 5, 1783, Sweden acknowledged the independence of the United States, and she was followed on February 25 by Denmark; on March 24 by Spain, and in July by Russia; and about the same dates treaties of amity and commerce were concluded with all of these powers.† On September 3, 1783, the definitive treaty of peace‡ between Great Britain and the United States was signed at Paris by Adams, Jay and Franklin on the part of the United States, and by David Hartley on the part of Great Britain.|| This treaty was simply a repetition of the preliminary articles signed in November, 1782. Early in January, 1784, the treaty was ratified by Congress.§ It is as follows:

IN THE NAME OF THE MOST HOLY AND UNDIVIDED TRINITY.

It having pleased the Divine Providence to dispose the hearts of the most serene and most potent prince, George the Third, by the grace of God King of Great Britain, France and Ireland, Defender of the Faith, Duke of Brunswick and Lunenburg, Arch-Treasurer and Prince Elector of the holy Roman empire, etc., and of the United States of America, to forget all past misunderstandings and differences that have unhappily interrupted the good correspondence and friendship which

* Thacher, *Military Journal*, pp. 332-334; Heath's *Memoirs*, pp. 338-341 (Abbatt's ed.).

† See Bancroft, vol. vi., pp. 54-58.

‡ For a resumé of the debates in the British Parliament regarding the treaty, see Bancroft, vol. vi., pp. 36-53.

|| John Adams, *Works*, vol. viii., p. 143.

§ See Shortt and Doughty, *Canadian Constitutional Documents*, pp. 491-493; *British and For-*

* Letter of July 5, 1783, John Adams, *Works*, vol. viii., p. 82.

† Pellew, *John Jay*, pp. 222-223.

they mutually wish to restore, and to establish such a beneficial and satisfactory intercourse between the two countries, upon the ground of reciprocal advantages and mutual convenience, as may promote and secure to both perpetual peace and harmony; and having for this desirable end already laid the foundation of peace and reconciliation, by the provisional articles signed at Paris, on the 30th of November, 1782, by the commissioners empowered on each part; which articles were agreed to be inserted in, and to constitute the treaty of peace proposed to be concluded between the crown of Great Britain and the said United States, but which treaty was not to be concluded until the terms of peace should be agreed upon between Great Britain and France, and his Britannic majesty should be ready to conclude such treaty accordingly; and the treaty between Great Britain and France having since been concluded, his Britannic majesty and the United States of America, in order to carry into full effect the provisional articles above mentioned, according to the tenor thereof, have constituted and appointed, that is to say, his Britannic majesty on his part, David Hartley, Esq., member of the Parliament of Great Britain; and the said United States on their part, John Adams, Esq., late a Commissioner of the United States of America at the court of Versailles, late delegate in Congress from the State of Massachusetts, and chief justice of the said state, and minister plenipotentiary of the said United States to their high mightinesses the State General of the United Netherlands; Benjamin Franklin, Esq., late delegate in Congress from the State of Pennsylvania, president of the Convention of the said State, and minister plenipotentiary from the United States of America at the court of Versailles; and John Jay, Esq., late President of Congress, and chief justice of the State of New York, and minister plenipotentiary from the said United States at the court of Madrid; to be the

plenipotentiaries for the concluding and signing the present definitive treaty; who, after having reciprocally communicated their respective full powers, have agreed upon and confirmed the following articles.

Article I. His Britannic majesty acknowledges the said United States, viz., New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, to be free, sovereign, and independent States; that he treats them as such, and for himself, his heirs, and successors, relinquishes all claim to the government, proprietary, and territorial rights of the same, and every part thereof.

Article II. And that all disputes which might arise in future on the subject of the boundaries of the said United States may be prevented, it is hereby agreed and declared, that the following are and shall be their boundaries, viz., from the northwest angle of Nova Scotia, viz.: that angle which is formed by a line drawn due north from the source of St. Croix River to the high lands which divide those rivers that empty themselves into the River St. Lawrence, from those which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut River; thence drawn along the middle of that river to the forty-fifth degree of north latitude; from thence by a line due west on said latitude, until it strikes the River Iroquois or Cataraquy; thence along the middle of said river into Lake Ontario; through the middle of said Lake, until it strikes the communication by water between that lake and Lake Erie; thence along the middle of the said communication into Lake Erie, through the middle of said lake, until it arrives at the water communication between that lake and Lake Huron; thence through the middle of said lake, to the water communication between that lake and Lake Superior; thence through Lake Superior northward to the isles Royal and Philipeaux, to the Long Lake; thence through the middle of said Long Lake, and the water communication between it and the Lake of the Woods, to the said Lake of the Woods; thence through the said lake to the most north-westernmost point thereof, and from thence a due west course to the River Mississippi; thence by a line to be drawn along the middle of the said River Mississippi, until it shall intersect the northernmost part of the thirty-first degree of north latitude; south, by a line to be drawn due east from the determination of the line last mentioned, in the latitude of thirty-one degrees north of the equator, to the middle

eign State Papers, Compiled by the Librarian and Keeper of Papers, Foreign Office, London: 1841, vol. i., pt. i., p. 779; *Treaties and Conventions of the United States*, pp. 375-379 (ed. of 1889); Wharton, *Diplomatic Correspondence of the United States*, vol. vi., pp. 96-99; MacDonald, *Select Documents*, pp. 16-21; Snow, *Treaties and Topics in American Diplomacy*, pp. 62-67. See also the letters regarding the difficulty of securing a quorum in Congress, the various reports, etc., on the ratification of the treaty, in Ford's ed. of *Jefferson's Writings*, vol. iii., pp. 349, 350, 355, 365, 371, 372, 375, 376, 378 *et seq.*, 397.

of the River Apalachicola or Catahouche; thence along the middle thereof, to its junction with the Flint River; thence straight to the head of St. Mary's River, and thence down the middle of St. Mary's River, to the Atlantic Ocean; east, by a line to be drawn along the middle of the St. Croix from its mouth in the Bay of Fundy to its source, and from its source directly north to the aforesaid high lands, which divide the rivers that fall into the Atlantic Ocean from those which fall into the River St. Lawrence, comprehending all islands within twenty leagues of any part of the shores of the United States, and lying between lines to be drawn due east from the points where the aforesaid boundaries between Nova Scotia on the one part, and East Florida on the other, shall respectively touch the Bay of Fundy and the Atlantic Ocean, excepting such islands as now are or heretofore have been within the limits of the said province of Nova Scotia.

Article III. It is agreed, that the people of the United States shall continue to enjoy unmolested, the right to take fish of every kind on the Great Bank, and on all the other banks of Newfoundland; also in the Gulf of St. Lawrence, and at all other places in the sea where the inhabitants of both countries used at any time heretofore to fish; and also that the inhabitants of the United States shall have liberty to take fish of every kind on such part of the coast of Newfoundland as British fishermen shall use, (but not to dry or cure the same on that island,) and also on the coasts, bays, and creeks, of all other of his Britannic majesty's dominions in America; and that the American fishermen shall have liberty to dry and cure fish in any of the unsettled bays, harbors, and creeks of Nova Scotia, Magdalen Islands, and Labrador, so long as the same shall remain unsettled; but as soon as the same shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such settlement, without a previous agreement for that purpose with the inhabitants, proprietors, or possessors of the ground.

Article IV. It is agreed, that the creditors, on either side shall meet with no lawful impediment to the recovery of the full value in sterling money of all *bona fide* debts heretofore contracted.

Article V. It is agreed, that Congress shall earnestly recommend it to the legislatures of the respective states, to provide for the restitution of all estates, rights, and properties, which have been confiscated, belonging to real British subjects; and also of the estates, rights, and properties, of persons resident in districts in the possession of his majesty's arms, and who have not borne

arms against the said United States; and that persons of any other description shall have free liberty to go to any part or parts of any of the thirteen United States, and therein to remain twelve months unmolested in their endeavors to obtain the restitution of such of their estates, rights, and properties, as may have been confiscated; and that Congress shall also earnestly recommend to the several States a reconsideration and revision of all acts or laws regarding the premises, so as to render the said laws or acts perfectly consistent, not only with justice and equity, but with that spirit of conciliation which, on the return of the blessings of peace, should invariably prevail; and that Congress shall also earnestly recommend to the several States, that the estates, rights, and properties of such last-mentioned persons, shall be restored to them, they refunding to any persons who may be now in possession the *bona fide* price, (where any has been given), which such persons may have paid on purchasing any of the said lands, rights, or properties, since the confiscation. And it is agreed, that all persons who have any interest in confiscated lands, either by debts, marriage settlements, or otherwise, shall meet with no lawful impediment in the prosecution of their just rights.

Article VI. That there shall be no future confiscations made, nor any prosecutions commenced against any person or persons, for or by reason of the part which he or they may have taken in the present war; and that no person shall on that account suffer any future loss or damage, either in his person, liberty, or property; and that those who may be in confinement on such charges, at the time of the ratification of the treaty in America, shall be immediately set at liberty, and the prosecutions so commenced be discontinued.

Article VII. There shall be a firm and perpetual peace between his Britannic majesty and the said United States, and between the subjects of the one and the citizens of the other, wherefore all hostilities, both by sea and land, shall from henceforth cease; all prisoners, on both sides, shall be set at liberty; and his Britannic majesty shall, with all convenient speed and without causing any destruction, or carrying away any negroes or other property of the American inhabitants, withdraw all his armies, garrisons, and fleets, from the said United States, and from every post, place, and harbor within the same, leaving in all fortifications the American artillery that may be therein; and shall also order and cause all archives, records, deeds, and papers belonging to

any of the said States, or their citizens, which in the course of the war may have fallen into the hands of his officers, to be forthwith restored, and delivered to the proper States and persons to whom they belong.

Article VIII. The navigation of the River Mississippi, from its source to the Ocean, shall forever remain free and open to the subjects of Great Britain and the citizens of the United States.

Article IX. In case it should so happen, that any place or territory, belonging to Great Britain

or to the United States, should have been conquered by the arms of either from the other, before the arrival of the said provisional articles in America, it is agreed, that the same shall be restored without difficulty and without requiring any compensation.

Article X. The solemn ratifications of the present treaty, expedited in good and due form, shall be exchanged between the contracting parties in the space of six months, or sooner, if possible, to be computed from the day of the signature of the present treaty.

CHAPTER XXXIV.

1783.

THE ARMY DISBANDED: WASHINGTON RESIGNS HIS COMMISSION.

Discontent among the army because of non-payment — Revolt of the troops — The Cincinnati formed — Washington's circular letter to the governors — Proclamation issued for disbanding army — Washington's farewell orders — Carleton evacuates New York; Washington takes possession — Washington's farewell to his officers — Resigns his commission — Appendix to Chapter XXXIV. I. Washington's circular letter to the governors. II. The resignation of Washington's commission.

Because the government had not yet fully paid the officers and men, it was necessary that great care be exercised in reducing the army. Furloughs were freely granted on the application of individuals, and upon leaving the army, they were enjoined not to return, so that in this manner a critical moment was passed.* During the summer, a large part of the unpaid troops were scattered throughout the States without tumult or disorder. Up to this time the conduct of the veteran troops had been especially gratifying to Washington, but some of the new levies created considerable disorder by their mutinous conduct at Lancaster, Pennsylvania. During June, about 80 of these

“soldiers of a day”* marched to Philadelphia to make demands upon Congress, on the way being joined by many others, so that upon their arrival at Philadelphia, they numbered about 300. Upon the arrival of the troops in the city, they marched to the State-house in a body where Congress and the State executive council were holding their sessions; placed guards at the doors; and threatened dire consequences unless their demands were complied with in twenty minutes. Washington was early informed of the movement of the troops toward Philadelphia and immediately dispatched General Howe with a body of regulars to suppress the mutiny. Before Howe ar-

* See Marshall, *Life of Washington*, vol. ii., pp. 53-54; Heath's *Memoirs*, p. 343 *et seq.*

* Ford's ed. of *Washington's Writings*, vol. x., p. 272.

rived, however, the mutiny had subsided without bloodshed. The mutineers were too inconsiderable to commit a great amount of mischief, but their conduct greatly aroused the indignation of Washington, who expressed his contempt for such proceedings in a letter to the President of Congress.*

While the army was still encamped on the Hudson, "The Society of the Cincinnati" was founded for the purpose of perpetuating the friendships formed during the war. Washington was urged to accept the chief office in the society and finally yielded to the wishes of the other officers.† According to the rules of the society, its honors were to be hereditary in the families of these members, and distinguished individuals might be admitted as honorary members for life. This arrangement soon created jealousy and distrust, as it was feared that the hereditary proviso of the rules would tend to create a sort of nobility. Learning of this feeling of distrust on the part of the people, Washington exerted all his influence to have the rules of the society changed, which was done in May, 1784. The result proved all the wis-

dom of the measure and all jealousy of the society soon afterward disappeared.*

While attending to the disbandment of the army, Washington consulted freely with Congress, and during his consultations recommended that a well-regulated standing army be established. To further advance the theory he advocated, he issued a circular letter to the governors of the States.‡ This was dated from Newburgh, June 8, 1783, and, according to Sparks, "is remarkable for its ability, the deep interest it manifests for the officers and soldiers, who had fought the battles of their country, the soundness of its principles, and the wisdom of its counsels."‡ The most important paragraphs were those relating to what he considered the four things essential to the existence and well-being of the United States. In conclusion, he made the following remarks:

"I now make it my earnest prayer, that God would have you, and the state over which you preside, in his holy protection; that he would incline the hearts of the citizens to cultivate a spirit of subordination and obedience to government; to entertain a brotherly affection and love for one another; for their fellow-citizens of the United States at large; and particularly for their brethren who have served in the field; and,

* Hildreth, vol. iii., pp. 436-437; Thacher, *Military Journal*, pp. 337-339. See also the accounts by Madison in Elliot's *Debates*, vol. i., pp. 92-94, and by Hamilton in Hamilton's *Works*, vol. i., pp. 374-393.

† Thacher, *Military Journal*, pp. 319-321; Heath's *Memoirs*, pp. 349-351; Lossing, *Field-Book of the Revolution*, vol. i., pp. 693-697; Brooks, *Life of Knox*, p. 174 *et seq.*; Fiske, *Critical Period of American History*, pp. 114-118.

* John B. McMaster, *A History of the People of the United States*, vol. i., p. 167 *et seq.* See also Jefferson's letter to Washington regarding this in Ford's ed. of *Jefferson's Writings*, vol. iii., pp. 464-470.

‡ Bancroft, vol. vi., pp. 83-86; Irving, *Life of Washington*, vol. iv., p. 456 *et seq.*

‡ *Life of Washington*, p. 366; Marshall, *Life of Washington*, vol. v., pp. 46-48. See Appendix i., at the end of the present chapter.

finally, that he would be most graciously pleased to dispose us all to do justice, to love mercy, and to demean ourselves with that charity, humility, and pacific temper of the mind, which were the characteristics of the Divine Author of our blessed religion; without an humble imitation of whose example, in these things, we can never hope to be a happy nation." *

On October 18, 1783, Congress issued a proclamation disbanding the army. It was decided to retain a small force, sufficient for any contingencies, until a peace establishment might be organized according to the wishes of Congress. Congress thanked the officers and soldiers in behalf of the entire country for their long, arduous and faithful service. After November 3, the army was entirely discharged from service. On the day preceding the discharge, Washington issued his farewell orders to the army, full of advice, sound principles and fervent hopes for the prosperity of the soldiers who he had had the honor to command. In conclusion he said:

"The commander-in-chief conceives little is now wanting to enable the soldier to change the military character into that of a citizen, but that steady and decent tenor of behavior, which has generally distinguished not only the army under his immediate command, but the different detachments and separate armies, through the course of the war. From their good sense and prudence, he anticipates the happiest consequences: and while he congratulates them on the glorious occasion which renders their services in the field no longer necessary, he wishes to express the strong obligations he feels himself under, for the assistance he has received from every class, and in every instance. He presents his thanks, in the most serious and affectionate manner to the general officers, as well for their counsel on many interesting occasions, as for their ardor in promoting

the success of the plans he had adopted; to the commandants of regiments and corps, and to the officers, for their zeal and attention in carrying his orders promptly into execution; to the staff, for their alacrity and exactness, in performing the duties of their several departments; and to the non-commissioned officers and private soldiers, for their extraordinary patience in suffering, as well as their invincible fortitude in action. To various branches of the army, the general takes his last and solemn opportunity of professing his inviolable attachment and friendship. He wishes more than bare profession were in his power, that he was really able to be useful to them all in future life. He flatters himself, however, they will do him the justice to believe, that whatever could with propriety be attempted by him, has been done. And being now to conclude these, his last public orders, to take his ultimate leave, in a short time, of the military character, and to bid a final adieu to the armies he has so long had the honor to command, he can only again offer, in their behalf, his recommendations to their grateful country, and his prayers to the God of armies. May ample justice be done them here, and may the choicest of heaven's favors both here and hereafter, attend those, who, under the divine auspices, have secured innumerable blessings for others! With these wishes, and this benediction, the commander-in-chief is about to retire from service. The curtain of separation will soon be drawn, and the military scene to him will be closed forever." *

Meanwhile, General Carleton had been ordered to evacuate New York and during the summer manifested his intention of so doing; he was delayed by various occurrences, however, and it was not until November that the arrangements for the departure of the troops could be completed. On the morning of November 25, Washington, with the American troops under General Knox and Governor Clinton, advanced to the upper part of the city, and at noon, as the British marched out, the Americans

* Thacher, *Military Journal*, pp. 340-341; Irving, *Life of Washington*, vol. iv., pp. 465-467.

* Irving, vol. iv., p. 460.

slowly entered and took possession, the civil authority of the State then being established.* The following Monday, December 1, a magnificent entertainment was given to the French minister, Luzerne, at which Washington and a large company were present, and in the evening there were fire-works at Bowling Green.† The most trying ordeal through which Washington had to pass was bidding adieu to his officers. This interview took place on December 4. Marshall describes the scene as follows:

“At noon the principal officers of the army assembled at Frances’s tavern, soon after which their beloved commander entered the room. His emotions were too strong to be concealed. Filling a glass, he turned to them, and said, ‘With a heart full of love and gratitude, I now take leave of you. I most devoutly wish, that your latter days may be as prosperous and happy as your former ones have been glorious and honorable.’ Having drunk, he added, ‘I cannot come to each of you to take my leave, but shall be obliged, if each of you will come and take me by the hand.’ General Knox, being nearest, turned to him. Washington, incapable of utterance, grasped his hand, and embraced him. In the same affectionate manner, he took leave of every suc-

ceeding officer.* The tear of manly sensibility was in every eye; and not a word was articulated, to interrupt the dignified silence, and the tenderness of the scene. Leaving the room, he passed through the corps of light infantry, and walked to Whitehall, where a barge waited to convey him to Paulus Hook. The whole company followed in mute and solemn procession, with dejected countenances, testifying feelings of delicious melancholy, which no language can describe. Having entered the barge, he turned to the company, and waving his hat, bid them a silent adieu. They paid him the same affectionate compliment; and after the barge had left them, returned in the same solemn manner to the place where they had assembled.”†

To completely sever his connection with the army, it only remained necessary that Washington resign his commission. In November, Congress had adjourned to Annapolis and there Washington repaired in order to terminate his public career. All along the route of his journey he was greeted with most earnest expressions of gratitude and affection and was presented with many public addresses by legislatures, towns, societies, etc. At Philadelphia he deposited an account of the expenses

* Brooks, p. 179.

† Marshall, *Life of Washington* (2 ed.), vol. ii., p. 57; Gordon, *American Revolution*, vol. iii., p. 377; Baneroff, vol. vi., p. 106; Thacher, *Military Journal*, pp. 341-342; Lodge, *George Washington*, vol. i., p. 337; Irving, vol. iv., pp. 471-472.

* Lamb, *City of New York*, vol. ii., pp. 273-274.

† Brooks, *Life of Knox*, p. 178; Irving, *Life of Washington*, vol. iv., p. 470.

incurred by him during the war, which he had inscribed with his own hand.* On December 19, 1783, Washington arrived at Annapolis and signified to Congress that he was prepared to resign his commission. It was determined that this should be done in public session and in the presence of his fellow citizens. On the 23d, therefore, Washington appeared before Congress for this purpose. The hall was crowded with spectators — friends and relatives, the officials of Maryland, and the consul-general of France. Washington was then introduced to the President of Congress and the secretary, and after a short silence, was informed that “the United States in Congress assembled, were prepared to receive his communications.” Washington thereupon arose and in a very dignified manner delivered his address, a copy of

which, together with his commission, he presented to the President of Congress.* He then remained standing, awaiting a reply. It was a remarkable coincidence that at this time General Mifflin was President of Congress, having been elected some time previously. Necessarily the duty of replying to Washington and thanking him for his services fell to the lot of one who, with others, had tried to besmire his character and usurp his place during the Conway Cabal. Nevertheless, Mifflin replied to Washington in terms of reverential courtesy and most earnest regard. This ceremony having been completed, Washington retired from the Hall of Congress and the next day reached his home at Mount Vernon, after eight years of faithful and arduous service once again a private citizen.

APPENDIX TO CHAPTER XXXIV.

I. A CIRCULAR LETTER.

From his Excellency George Washington, Commander-in-chief of the Armies of the United States of America, to the Governors of the several States.

HEAD-QUARTERS, NEWBURG, June 8, 1783.

SIR: The great object for which I had the honor to hold an appointment in the service of my country being accomplished, I am now preparing to resign it into the hands of Congress, and return to that domestic retirement, which it is well known I left with the greatest reluctance;

a retirement for which I never ceased to sigh through a long and painful absence, in which (remote from the noise and trouble of the world) I mediate to pass the remainder of life, in a state of undisturbed repose: but before I carry this resolution into effect, I think it a duty incumbent on me to make this my last official communication, to congratulate you on the glorious events which heaven has been pleased to produce in our favor, to offer my sentiments respecting some

* Washington's account of his expenses will be found in Sparks, *Life of Washington*, App. iii., pp. 516–518. They amounted to about \$65,000.

* See Appendix II., at the end of the present chapter. See also Thacher, *Military Journal*, pp. 342–343; Johnson, *General Washington*, chap. xvi.; Lodge, *George Washington*, vol. i., pp. 339–340; Irving, *Life of Washington*, vol. iv., pp. 474–475.

important subjects, which appear to me to be intimately connected with the tranquillity of the United States, to take my leave of your Excellency as a public character, and to give my final blessing to that country in whose service I have spent the prime of my life; for whose sake I have consumed so many anxious days and watchful nights, and whose happiness, being extremely dear to me, will always constitute no inconsiderable part of my own.

Impressed with the liveliest sensibility on this pleasing occasion, I will claim the indulgence of dilating the more copiously on the subject of our mutual felicitation. When we consider the magnitude of the prize we contended for, the doubtful nature of the contest, and the favorable manner in which it has terminated; we shall find the greatest possible reason for gratitude and rejoicing; this is a theme that will afford infinite delight to every benevolent and liberal mind, whether the event in contemplation be considered as a source of present enjoyment, or the parent of future happiness; and we shall have equal occasion to felicitate ourselves on the lot which Providence has assigned us, whether we view it in a natural, a political, or moral point of view.

The citizens of America, placed in the most enviable condition, as the sole lords and proprietors of a vast tract of continent, comprehending all the various soils and climates of the world, and abounding with all the necessities and conveniences of life, are now by the late satisfactory pacification, acknowledged to be possessed of absolute freedom and independency; they are from this period to be considered as the actors on a most conspicuous theatre, which seems to be peculiarly designed by Providence for the display of human greatness and felicity: here they are not only surrounded with every thing that can contribute to the completion of private and domestic enjoyment, but Heaven has crowned all its other blessings by giving a surer opportunity for political happiness than any other nation has ever been favored with. Nothing can illustrate these observations more forcibly than the recollection of the happy conjuncture of these times and circumstances under which our Republic assumed its rank among the nations. The foundation of our empire has not been laid in a gloomy age of ignorance and superstition, but at an epoch when the rights of mankind were better understood and more clearly defined, than at any former period: researches of the human mind after social happiness have been carried to a great extent: the treasures of knowledge acquired by the labors of philosophers, sages, and legislators,

through a long succession of years, are laid open for use, and their collected wisdom may be happily applied in the establishment of our forms of government: the free cultivation of letters, the unbounded extension of commerce, the progressive refinement of manners, the growing liberality of sentiment, and above all, the pure and benign light of Revelation, have had a meliorating influence on mankind, and increased the blessings of society. At this auspicious period the United States came into existence as a nation, and if their citizens should not be completely free and happy, the fault will be entirely their own.

Such is our situation, and such are our prospects; but notwithstanding the cup of blessing is thus reached out to us; notwithstanding happiness is ours, if we have a disposition to seize the occasion, and make it our own; yet it appears to me, there is an option still left to the United States of America, whether they will be respectable and prosperous, or contemptible and miserable as a nation. This is the time of their political probation; this is the moment when the eyes of the world are turned upon them; this is the time to establish or ruin their national character forever; this is the favorable moment to give such a tone to the Federal Government, as will enable it to answer the ends of its institution; or this may be the ill-fated moment for relaxing the powers of the Union, annihilating the cement of the Confederation, and exposing us to become the sport of European politics, which may play one State against another, to prevent their growing importance, and to serve their own interested purposes. For, according to the system of policy the States shall adopt at this moment, they will stand or fall; and by their confirmation or lapse, it is yet to be decided, whether the Revolution must ultimately be considered as a blessing or a curse; a blessing, or a curse, not to the present age alone; for, with our fate, will the destiny of unborn millions be involved.

With this conviction of the importance of the present crisis, silence in me would be a crime. I will therefore speak to your Excellency the language of freedom and sincerity, without disguise. I am aware, however, those who differ from me in political sentiments, may perhaps remark, I am stepping out of the proper line of my duty; and they may possibly ascribe to arrogance or ostentation, what I know is alone the result of the purest intention; but the rectitude of my own heart, which disdains such unworthy motives; the part I have hitherto acted in life; the determination I have formed, of not taking any share in public business hereafter; the ardent desire I feel,

and shall continue to manifest, of quietly enjoying in private life, after all the toils of war, the benefits of a wise and liberal government, will, I flatter myself, sooner or later, convince my countrymen, that I could have no sinister views in delivering, with so little reserve, the opinions contained in this address.

There are four things which I humbly conceive, are essential to the well-being, I may even venture to say, to the existence, of the United States, as an independent power.

1st. An indissoluble union of the States under one federal head.

2dly. A sacred regard to public justice.

3dly. The adoption of a proper peace establishment. And,

4thly. The prevalence of that pacific and friendly disposition among the people of the United States, which will induce them to forget their local prejudices and politics, to make those mutual concessions which are requisite to the general prosperity, and in some instances, to sacrifice their individual advantages to the interest of the community.

These are the pillars on which the glorious fabric of our independence and national character must be supported. Liberty is the basis, and whoever would dare to sap the foundation, or overturn the structure, under whatever specious pretext he may attempt it, will merit the bitterest execration, and the severest punishment, which can be inflicted by his injured country.

On the three first articles I will make a few observations, leaving the last to the good sense and serious consideration of those immediately concerned.

Under the first head, although it may not be necessary or proper for me, in this place, to enter into a particular disquisition of the principles of the Union, and to take up the great question which has been frequently agitated, whether it be expedient and requisite for the States to delegate a large proportion of power to Congress or not; yet it will be a part of my duty, and that of every true patriot, to assert without reserve, and to insist upon the following positions. That unless the States will suffer Congress to exercise those prerogatives they are undoubtedly invested with by the Constitution, every thing must very rapidly tend to anarchy and confusion. That it is indispensable to the happiness of the individual States, that there should be lodged somewhere a supreme power, to regulate and govern the general concerns of the confederated republic, without which the Union cannot be of long duration. There must be a faithful and pointed compliance on the part

of every State, with the late proposals and demands of Congress, or the most fatal consequences will ensue. That whatever measures have a tendency to dissolve the Union, or contribute to violate or lessen the sovereign authority, ought to be considered as hostile to the liberty and independence of America, and the authors of them treated accordingly. And lastly, that unless we can be enabled, by the concurrence of the States, to participate in the fruits of the Revolution, and enjoy the essential benefits of civil society, under a form of government so free and uncorrupted, so happily guarded against the danger of oppression, as has been devised and adopted by the Articles of Confederation, it will be the subject of regret, that so much blood and treasure have been lavished for no purpose; that so many sufferings have been counteracted without a compensation, and that so many sacrifices have been made in vain. Many other considerations might here be adduced to prove, that without an entire conformity to the spirit of the Union, we cannot exist as an independent power. It will be sufficient for my purpose to mention but one or two, which seem to me of the greatest importance. It is only in our united character, as an empire, that our independence is acknowledged, that our power can be regarded, or our credit supported among foreign nations. The treaties of the European powers with the United States of America, will have no validity on the dissolution of the Union. We shall be left nearly in a state of nature, or we may find by our own unhappy experience, that there is a natural and necessary progression from the extreme of anarchy to the extreme of tyranny; and that arbitrary power is most easily established on the ruins of liberty abused to licentiousness.

As to the second article, which respects the performance of public justice, Congress have, in their late address to the United States, almost exhausted the subject; they have explained their ideas so fully, and have enforced the obligations the States are under, to render complete justice to all the public creditors, with so much dignity and energy, that, in my opinion, no real friend to the honor and independency of America, can hesitate a single moment respecting the propriety of complying with the just and honorable measures proposed. If their arguments do not produce conviction, I know of nothing that will have a greater influence, especially when we reflect, that the system referred to, being the result of the collected wisdom of the continent, must be esteemed, if not perfect, certainly the least objectionable of any that could be devised; and that if it should not be

carried into immediate execution, a national bankruptcy, with all its deplorable consequences, will take place, before any different plan can possibly be proposed or adopted, so pressing are the present circumstances, and such the alternative now offered to the States.

The ability of the country to discharge the debts which have been incurred in its defence, is not to be doubted. An inclination, I flatter myself, will not be wanting; the path of our duty is plain before us; honesty will be found, on every experiment, to be the best and only true policy. Let us, then, as a nation, be just; let us fulfil the public contracts which Congress had undoubtedly a right to make for the purpose of carrying on the war, with the same good faith we suppose ourselves bound to perform our private engagements. In the meantime, let an attention to the cheerful performance of their proper business, as individuals, and as members of society, be earnestly inculcated on the citizens of America; then will they strengthen the bands of government, and be happy under its protection. Every one will reap the fruit of his labors; every one will enjoy his own acquisitions, without molestation, and without danger.

In this state of absolute freedom, and perfect security, who will grudge to yield a very little of his property, to support the common interests of his society, and ensure the protection of government? Who does not remember the frequent declarations at the commencement of the war, that we should be completely satisfied, if, at the expense of one half, we could defend the remainder of our possessions? Where is the man to be found, who wishes to remain indebted for the defence of his own person and property to the exertions, the bravery, and the blood of others, without making one generous effort to pay the debt of honor and of gratitude? In what part of the continent shall we find any man, or body of men, who would not blush to stand up, and propose measures purposely calculated to rob the soldier of his stipend, and the public creditor of his due? And were it possible, that such a flagrant instance of injustice could ever happen, would it not excite the general indignation, and tend to bring down upon the authors of such measures, the aggravated vengeance of heaven? If, after all, a spirit of disunion, or a temper of obstinacy and perverseness should manifest itself in any of the States; if such an ungracious disposition should attempt to frustrate all the happy effects that might be expected to flow from the Union; if there should be a refusal to comply with the requisitions for funds to discharge the annual interest of the public debts,

and if that refusal should revive all those jealousies, and produce all those evils which are now happily removed; Congress, who have in all their transactions, shown a great degree of magnanimity and justice, will stand justified in the sight of God and man! And that State alone, which puts itself in opposition to the aggregate wisdom of the continent, and follows such mistaken and pernicious counsels, will be responsible for all the consequences.

For my own part, conscious of having acted while a servant of the public, in the manner I conceived best suited to promote the real interests of my country; having, in consequence of my fixed belief, in some measure pledged myself to the army that their country would finally do them complete and ample justice, and not willing to conceal any instance of my official conduct from the eyes of the world, I have thought proper to transmit to your Excellency the enclosed collection of papers, relative to the half-pay and commutation granted by Congress to the officers of the army; from these communications, my decided sentiments will be clearly comprehended, together with the conclusive reasons, which induced me at an early period, to recommend the adoption of this measure in the most earnest and serious manner. As the proceedings of Congress, the army, and myself, are open to all, and contain, in my opinion, sufficient information, to remove the prejudice and errors which may have been entertained by any, I think it unnecessary to say any thing more, than just to observe, that the resolutions of Congress, now alluded to, are as undoubtedly and absolutely binding on the United States, as the most solemn acts of confederation or legislation.

As to the idea, which I am informed has, in some instances, prevailed, that the half-pay and commutation are to be regarded merely in the odious light of a pension, it ought to be exploded forever; that provision should be viewed, as it really was, a reasonable compensation offered by Congress, at a time when they had nothing else to give to officers of the army, for services then to be performed: it was the only means to prevent a total dereliction of the service; it was a part of their hire. I may be allowed to say, it was the price of their blood, and of your independency; it is therefore more than a common debt, a debt of honor; it can never be considered as a pension or gratuity, nor cancelled until it is fairly discharged.

With regard to the distinction between officers and soldiers, it is sufficient that the uniform experience of every nation in the world, combined

with our own, proves the utility and propriety of the discrimination. Rewards, in proportion to the aid the public draws from them, are unquestionably due to all its servants. In some lines, the soldiers have perhaps had as ample compensation for their services, by the large bounties which have been paid to them, as their officers will receive in the proposed commutation: in others, if, besides the donation of land, the payment of arrearages of clothing and wages (in which articles all the component parts of the army must be put upon the same footing) we take into the estimate the bounties many of the soldiers have received, and the gratuity of one year's full pay, which is promised to all, possibly their situation (every circumstance being duly considered) will not be deemed less eligible than that of the officers. Should a further reward, however, be judged equitable, I will venture to assert, no man will enjoy greater satisfaction than myself, in an exemption from taxes for a limited time, (which has been petitioned for in some instances,) or any other adequate immunity or compensation granted to the brave defenders of their country's cause; but neither the adoption nor rejection of this proposition will in any manner affect, much less militate against, the act of Congress, by which they have offered five years' full pay, in lieu of the half-pay for life, which had been before promised to the officers of the army.

Before I conclude the subject on public justice, I cannot omit to mention the obligations this country is under to that meritorious class of veterans, the non-commissioned officers and privates who have been discharged for inability, in consequence of the resolution of Congress, of the 23d of April, 1782, on an annual pension for life. Their peculiar sufferings, their singular merits and claims to that provision, need only to be known, to interest the feelings of humanity in their behalf. Nothing but a punctual payment of their annual allowance can rescue them from the most complicated misery; and nothing could be a more melancholy and distressing sight, than to behold those who have shed their blood, or lost their limbs in the service of their country, without a shelter, without a friend, and without the means of obtaining any of the comforts or necessities of life, compelled to beg their daily bread from door to door. Suffer me to recommend those of this description, belonging to your State, to the warmest patronage of your Excellency and your Legislature.

It is necessary to say but a few words on the third topic which was proposed, and which regards particularly the defence of the republic. As there

can be little doubt but Congress will recommend a proper peace establishment for the United States, in which a due attention will be paid to the importance of placing the militia of the Union upon a regular and respectable footing; if this should be the case, I should beg leave to urge the great advantage of it in the strongest terms.

The militia of this country must be considered as the palladium of our security, and the first effectual resort in case of hostility; it is essential, therefore, that the same system should pervade the whole; and that the formation and discipline of the militia of the continent should be absolutely uniform; and that the same species of arms, accoutrements, and military apparatus, should be introduced in every part of the United States. No one, who has not learned it from experience, can conceive the difficulty, expense, and confusion which result from a contrary system, or the vague arrangements which have hitherto prevailed.

If, in treating of political points, a greater latitude than usual has been taken in the course of the Address, the importance of the crisis and magnitude of the objects in discussion, must be my apology; it is, however, neither my wish nor expectation, that the preceding observations should claim any regard, except so far as they shall appear to be dictated by a good intention, consonant to the immutable rules of justice, calculated to produce a liberal system of policy, and founded on whatever experience may have been acquired by a long and close attention to public business. Here I might speak with more confidence, from my actual observations; and if it would not swell this letter (already too prolix) beyond the bounds I had prescribed myself, I could demonstrate to every mind, open to conviction, that in less time, and with much less expense than has been incurred, the war might have been brought to the same happy conclusion, if the resources of the continent could have been properly called forth; that the distresses and disappointments which have very often occurred, have, in too many instances, resulted more from a want of energy in the continental government, than a deficiency of means in the particular States; that the inefficiency of the measures, arising from the want of an adequate authority in the supreme power, from a partial compliance with the requisitions of Congress in some of the States, and from a failure of punctuality in others, while they tended to damp the zeal of those who were more willing to exert themselves, served also to accumulate the expenses of the war, and to frustrate the best concerted plans; and that the discouragement occasioned by the complicated difficulties and em-

barrassments in which our affairs were by this means involved, would have long ago produced the dissolution of any army less patient, less virtuous, and less persevering than that which I have had the honor to command. But while I mention those things which are notorious facts, as the defects of our Federal Constitution, particularly in the prosecution of a war, I beg it may be understood, that as I have ever taken a pleasure in gratefully acknowledging the assistance and support I have derived from every class of citizens; so shall I always be happy to do justice to the unparalleled exertions of the individual States, on many interesting occasions.

I have thus freely disclosed what I wished to make known before I surrendered up my public trust to those who committed it to me; the task is now accomplished. I now bid adieu to your Excellency, as the Chief Magistrate of your State; at the same time I bid a last farewell to the cares of Office, and all the employments of public life.

It remains, then, to be my final and only request, that your Excellency will communicate these sentiments to your legislature, at their next meeting, and that they may be considered as the

legacy of one who has ardently wished, on all occasions, to be useful to his country, and who even in the shade of retirement, will not fail to implore the divine benediction upon it.

I now make it my earnest prayer that God would have you, and the State over which you preside, in his holy protection; that he would incline the hearts of the citizens to cultivate a spirit of subordination and obedience to government; to entertain a brotherly affection and love for one another; for their fellow-citizens of the United States at large; and particularly for their brethren who have served in the field; and, finally, that he would most graciously be pleased to dispose us all to do justice, to love mercy, and to demean ourselves with that charity, humility, and pacific temper of the mind, which were the characteristics of the Divine Author of our blessed religion; without an humble imitation of whose example, in these things, we can never hope to be a happy nation.

I have the honor to be, with much esteem and respect, Sir, your Excellency's most obedient and most humble servant,

GEO. WASHINGTON.

II. THE RESIGNATION OF WASHINGTON'S COMMISSION.

MR. PRESIDENT:—The great events on which my resignation depended, having at length taken place, I now have the honor of offering my sincere congratulations to Congress, and of presenting myself before them, to surrender into their hands the trust committed to me, and to claim the indulgence of retiring from the service of my country.

Happy in the confirmation of our independence and sovereignty, and pleased with the opportunity afforded the United States, of becoming a respectable nation, I resign with satisfaction the appointment I accepted with diffidence; a diffidence in my abilities, to accomplish so arduous a task, which, however, was superseded by a confidence in the rectitude of our cause, the support of the supreme power of the Union, and the patronage of Heaven.

The successful termination of the war has verified the most sanguine expectations: my gratitude for the interposition of Providence, and the assistance I have received from my countrymen, increase with every review of the momentous contest.

While I respect my obligations to the army in general, I should do injustice to my own feelings, not to acknowledge in this place, the peculiar services and distinguished merits of the persons who

have been attached to my person during the war. It was impossible the choice of confidential officers to compose my family should have been more fortunate. Permit me, Sir, to recommend, in particular, those who have continued in the service to the present moment, as worthy of the favorable notice and patronage of Congress.

I consider it as an indispensable duty, to close this last solemn act of my official life, by commending the interests of our dearest country to the protection of Almighty God, and those who have the superintendence of them, to His holy keeping.

Having now finished the work assigned me, I retire from the great theatre of action and bidding an affectionate farewell to this august body, under whose orders I have so long acted, I here offer my commission, and take my leave of all the employments of public life.

To this Address, the President of Congress answered as follows:—

SIR:—The United States, in Congress assembled, receive, with emotions too affecting for utterance, the solemn resignation of the authorities under which you have led their troops with success through a perilous and a doubtful war. Called upon by your country, to defend its invaded rights, you accepted the sacred charge, be-

fore it had formed alliances, and whilst it was without funds, or a government to support you. You have conducted the great military contest with wisdom and fortitude, invariably regarding the rights of the civil power, through all disasters and changes. You have, by the love and confidence of your fellow-citizens, enabled them to display their martial genius, and transmit their fame to posterity. You have persevered, until these United States, aided by a magnanimous king and nation, have been enabled, under a just Providence, to close the war in safety, freedom, and independency; on which happy event, we sincerely join you in congratulations.

Having defended the standard of liberty in this new world; having taught a lesson useful to those who inflict, and to those who feel oppression, you retire from the great theatre of action, with the blessings of your fellow-citizens; but the glory

of your virtues will not terminate with your military command; it will continue to animate remotest ages.

We feel, with you, our obligations to the army in general, and will particularly charge ourselves with the interest of those confidential officers, who have attended your person to this affecting moment.

We join you in commending the interests of our dearest country to the protection of Almighty God, beseeching Him to dispose the hearts and minds of its citizens, to improve the opportunity afforded them, of becoming a happy and respectable nation; and for you, we address to Him our earnest prayers, that a life so beloved, may be fostered with all His care; that your days may be happy, as they have been illustrious, and that He will finally give you that reward which this world cannot give.

SERIES SIX
LECTURES EIGHTEEN TO TWENTY-ONE

The Confederation and the Constitution, 1783—1787

18. Conditions and Problems after the Revolution
19. Commerce, Finance and Foreign Relations
20. Internal Affairs, Western Settlements and New Governments
21. The Formation and Adoption of the Constitution

THE UNITED STATES

CHAPTER I.

1783.

CONDITIONS AND PROBLEMS OF THE COUNTRY AFTER THE REVOLUTION.

Political sentiment after the war — Sentiments of foreigners — Extent of settlements — Population of the colonies — Descriptions of Boston, New York, Brooklyn, Philadelphia, Pittsburg, Baltimore, and other towns — Difficulties of travel — Status of the State governments — The Judiciary — Suffrage qualifications — Social and economic conditions — The stage — Religious conditions — Church organizations — Education — Newspapers — Industry — Labor conditions — Slavery and slave trade — Currency — Penal affairs — Problems before the people.

WITH the signing of the preliminary articles of peace at Paris, the struggle for independence was practically ended, and the United States was a free nation. The struggle had been long and arduous; the patriots had endured indescribable hardships and had overcome stern and bitter trials; but perseverance had gained the meed, and patience had won the race. They were now free from foreign domination, in possession of a vast domain the possibilities of which they had not even the slightest conception, and before them lay the future which was their own to do with as they saw fit. It only depended upon themselves as to whether that future was to be bright or dark.*

Yet the actual conditions existing at the present time were far from encouraging, for the people had been compelled to win independence at the point of the sword, and the natural outcome was that the country should be in a deplorable state, lands desolated, poverty general and homes broken up by deaths. Resources were to a great extent dried up, finances in a deplorable condition, trade and commerce practically destroyed, agri-

ners. My God! how little do my countrymen know what precious blessings they are in possession of, and which no other people on earth enjoy. I confess I had no idea of it myself. While we shall see multiplied instances of Europeans going to live in America, I will venture to say no man now living will ever see an instance of an American removing to settle in Europe & continuing there. Come then, & see the proofs of this, and on your return add your testimony of every thinking American, in order to satisfy our countrymen how much it is their interest to preserve unaffected by contagion those peculiarities in their government & manners to which they are indebted for these blessings."—Ford's ed. of Jefferson's *Writings*, vol. iv., p. 59.

* Writing to Monroe from Paris, June 17, 1785, Jefferson said: "It [a sojourn in France] will make you adore your own country, it's soil, it's climate, it's equality, liberty, laws, people & man-

culture almost ruined,* and to make matters still worse there was practically no central authority to which the inhabitants could appeal to secure justice and equity. A mountain of debt was pressing upon what little central authority there was, but even this government was on the brink of destruction and no one could tell the exact status of political affairs. The statesmen of the period saw that there was a large work yet to be done and that a crisis had to be met which was of prime importance to the welfare of the whole nation and only secondary to the struggle for existence itself. Madison said that, "unless some amicable and adequate arrangements be speedily taken for adjusting all the subsisting accounts and discharging the public engagements, a dissolution of the Union will be inevitable."†

In 1783 the love of Union, as a sentiment for which men would undergo all manner of hardship, had scarcely come into existence among the people of the emancipated colonies. But nine years had elapsed since in the first Continental Congress the States had begun to act in concert, under the severe pressure of common fear and an immediate necessity of action. Even then the war was allowed to languish and had almost failed because of the difficulty of securing concerted action; the

length of the war was due chiefly to this lack of organization. Congress had steadily declined in power and was much weaker at the end than at the beginning of the war. There was also much fear that with the war so happily concluded, what little interest the people had in the Confederation would die out altogether and the need for concerted action cease to be felt, whereupon the Union would break to pieces. As Fiske says: "Unless the most profound and delicate statesmanship should be forthcoming to take this sentiment under its guidance, there was much reason to fear that the release from the common adhesion to Great Britain would end in setting up thirteen little republics, ripe for endless squabbling, like the republics of ancient Greece and mediæval Italy, and ready to become the prey of England and Spain, even as Greece became the prey of Macedonia."* Fiske quotes the remarks of Josiah Tucker, Dean of Gloucester, in which he says: "The mutual antipathies and clashing interests of the Americans, their difference of governments, habitudes and manners, indicate that they will have no centre of union and no common interest. They can never be united into one compact empire under any species of government whatever; a disunited people till the end of time, suspicious and distrustful of each other, they will be divided and subdivided into little

* Ford's ed. of *Jefferson's Writings*, vol. iv., p. 140.

† Gay, *Life of Madison*, p. 36.

* Fiske, *Critical Period of American History*, p. 57 (4th ed., 1889, Houghton, Mifflin & Co.)

commonwealths or principalities, according to natural boundaries, by great bays of the sea, and by vast rivers, lakes and ranges of mountains." How mistaken! And yet Tucker was only one among many who thought so, while the events for several years after the conclusion of peace seemed to indicate the fulfilment of his prophecy. George III. believed we would get into such a snarl that the States one by one would ask to be taken back into the British fold, while Frederick of Prussia said that the mere extent of territory from Maine to Georgia would in itself be sufficient either to break up the country or to make a monarchy necessary.* Would that he could return to life at the present time!

The treaty of 1783 by which America secured independence from England clearly defined the boundaries of the region surrendered by the mother country. This region stretched from the Atlantic Ocean west to the banks of the Mississippi, and from the Great Lakes on the north southward to the 31st parallel and the southern border of Georgia. Of the thirteen original States among whom this vast tract was parcelled seven had well-defined boundaries, while some of the remaining six claimed the lands now comprising other States, and the rest claimed lands which were only limited by the waters of the Mississippi.†

The present generation can scarcely conceive the wild conditions prevailing at that time in this vast territory. The country was in effect an Atlantic confederacy, as every State bordered upon that ocean or its tide-waters and the Alleghanies "seemed as remote as did the Pillars of Hercules to the ancients."* Along the coastline from Maine to Georgia there was a narrow line of towns and hamlets. Maine, still owned by Massachusetts, contained not more than 100,000 population. Outside of Portland and Falmouth, scarcely a settlement of any size existed, and such as did, consisted of a few fishermen's cots of the rudest type. Thence toward the St. Lawrence stretched an almost unbroken solitude. New Hampshire contained but few settlements of any size, chiefly in the White Mountains region. Albany and Schenectady were the principal towns in Northern New York, but the rich valleys of the Mohawk and the Genesee had hardly as yet begun to produce food products for the nourishment of the large cities and were still covered by dense forests — the hunting grounds of the Cayugas, the Oneidas and the Mohawks. Western Pennsylvania, though having given some indication of vast mineral wealth, had not as yet brought forth her rich deposits of

of the United States from the Revolution to the Civil War, vol. i., p. 3; James Schouler, *History of the United States under the Constitution*, vol. i., p. 2.

* Schouler, vol. i., p. 3.

* *Ibid.*, p. 58.

† John B. McMaster, *A History of the People*

coal and iron that were to astonish the world. The backwoods of Virginia contained only a straggling village here and there; beyond the Blue Ridge, Indian warfare was still carried on by Daniel Boone and the Cherokees in the cane-brakes of Kentucky; and on the fertile plains of western Tennessee were but a few log huts. Natchez had been settled by a few pioneers; St. Louis had been founded; Pittsburg had not grown beyond the limits of a military post; and Cincinnati, even as late as 1795, contained but 95 log cabins and 500 inhabitants. These western settlements and their affairs were almost unknown to a large portion of the eastern or coast inhabitants. The West was a vast solitude of unbroken forests and the people knew little more about it than about darkest Africa; while beyond the Mississippi buffaloes wandered in herds; the plains stretched for miles unbroken by mountains or forests; the grass grew high and the flowers were beautiful; and the native Indian still had to see his first white man.*

The precise population of the colonies at the end of the Revolution cannot be stated absolutely, but it probably was not far from 3,250,000. In 1790 the first census indicated that there were 3,929,214 human beings in the country;† and, allowing a growth

of 100,000 per year during the seven years from 1783 to 1790, it would probably be as near the truth as it is possible to come to estimate the population at 3,250,000, though Schouler estimates it at “somewhat less than three and a half million souls, of whom probably 600,000 men, women and children are held in servitude to white masters.* As will be seen by the table, Virginia, North and South Carolina contained more than a third of the entire population, chiefly because they were renowned as highly productive agricultural regions, and were famous for their crops of tobacco, rice, indigo, pitch and tar, while, on the other hand, New England could grow scarcely enough corn and rye to supply the needs of the citizens.†

tract of the United States for 1907 distributes this as follows:

Maine	96,540
Massachusetts	378,787
New Hampshire	141,885
Vermont	85,425
Rhode Island	68,825
Connecticut	237,946
New York	340,120
New Jersey	184,139
Pennsylvania	434,373
Delaware	59,096
Maryland	319,728
Virginia	747,610
Tennessee	35,691
North Carolina	393,751
South Carolina	249,073
Georgia	82,548
Kentucky	73,677

Total 3,929,214

* McMaster, *United States*, vol. i., pp. 3-5. On the conditions in the West at this time, see Roosevelt, *Winning of the West*, vol. iii., chap. i.

† The Table on page 30 of the *Statistical Ab-*

* *History of the United States*, vol. i., pp. 3-4.

† McMaster, *United States*, vol. i., pp. 9-10.

Boston, situated on three hills, contained about 2,100 houses with 14,640 inhabitants, and could boast of a rude ferry service between the North End and Charlestown, but it was not until 1786 that the Charles River was spanned by a bridge.* The streets of the city were irregular, the sidewalks were unflagged, and the roads in poor condition. In the older portions of the city the houses were mean and squalid, and built entirely of wood and generally unpainted, but on the west side of the town the streets were neater, many of the houses were of brick and were set back in little gardens, thus presenting a beautiful and homelike appearance.† A few houses were strung along the post-road at Springfield; Lawrence and Manchester were hamlets of only a few houses each; and even as late as 1820 the site of Lowell was a favorite resort for hunters.‡ There were, however, several noted whaling ports, which before the war were highly prosperous, such as Falmouth, Barnstable, Martha's Vineyard, Cape Ann, New London and the most noted, Nantucket, a little town which stood on a strip of land about four miles wide and fifteen miles long. But the war ended the pros-

perity, at least for Nantucket; her docks and wharves were deserted, grass grew in her streets and things in general were in a sad state of decay.*

Prior to the Revolution, New York contained about 23,000 inhabitants and was the seat of great commercial activity, but when the British evacuated it more than a third of the town lay in ashes, her commerce was gone, her treasury empty and her citizens (at least all except the Loyalists who had remained in the city during the British occupation) were starving in the wilds of New Jersey. In 1786 her population was about 24,500, and there were about 3,500 houses. The city itself covered a small area, being bounded by Anthony Street on the north, Harrison Street on the west, and Rutgers Street on the east, and within its small confines were not only the business and public buildings, but also residences, many of which were surrounded by large gardens. At that time the present Greenwich Street was a beach upon which the seine was regularly drawn; Beekman's swamp was a splendid place for duck shooting, and Berkeley's woods were alive with wild pigeons.†

No effort had been made to eradicate the traces of the fire by erecting houses, and in 1784 the devastated area was in practically the same state

* S. F. Thomas, *Reminiscences of the Last Sixty-Five Years*, p. 14.

† See Henry Wansey, *Excursion to the United States of North America in the Summer of 1794*; Drake, *Landmarks of Boston*; and a *Description of Boston: with a view of the Town of Boston, finely engraved*, in *Columbian Magazine* (December, 1787).

‡ Miles, *Lowell as it Was and as it Is*, p. 10.

* McMaster, *United States*, vol. i., pp. 63-64; Brown, *History of the Whale-Fishery*; Obed Marey, *History of Nantucket Island*.

† McMaster, vol. i., pp. 52-53, 64.

of desolation. Below the site occupied by the present city hall was the common, known at the "Flat" or "Vlackte," north of which was a fresh water pond called the Collect, and to the east of which lay Beekman's swamp, where Jacobus Roosevelt erected his tanneries and began the industry of which that section of the city is the centre.* Several hundred horses and cows might have been seen grazing in the open fields about Reade Street, where there was a burying ground for negroes and scarcely a single house.† Orchards and gardens lined the Bowery; near Gramercy Park was Crummashire Hill; the upper end of Broadway above Anthony Street ended in the meadows; and to the west of Canal Street lay the Lispenard meadows, the mecca of sportsmen. Further up on the island were numerous stately mansions, such as the home of Robert Murray at Inclenbergh, the Apthorpe mansion on Bloomingdale road, the Beekman mansion on the East River at Turtle Bay, and the Roger Morris mansion overlooking the Harlem.

The streets of the city were for the most part unpaved, and the few street-lamps of which the city boasted were rarely lighted on wet nights. The majority of the signs on William Street were in Dutch, and a knowledge of that language was indispensable in the transaction of business or

in social life.* There were ferries to Brooklyn consisting of clumsy row boats, flat-bottomed square-end scows fitted up with sprit sails, and two masted boats called periguas. On pleasant calm days there was little danger and the trips might be made with a degree of comfort and some rapidity, but, if the wind blew with the tide or if there were a strong flood or ebb, it sometimes took an hour to cross. These boats transported passengers, freight and cattle, and many of the latter were lost because at times they would all get to one side of the boat and tip it over or they would become frightened and jump or fall out. It was not until the rude steamboats of Fulton made their appearance at New York that there was any comfort in crossing the river.† Fulton, however, was not the first to operate a steamboat. In the latter part of 1787, James Rumsey exhibited a boat on the Potomac which was propelled by means of a steam pump which forced a stream of water from the stern.‡ On August 22, 1787, after

* See Dunlap, *History of New Netherlands*; Watson, *Historical Tales of the Olden Times in New York City and State*; Denton, *Brief Description of New York*; Duer, *New York as it was during the latter part of the Last Century*; M. L. Booth, *History of the City of New York*; Valentine, *History of the City of New York*.

† Stiles, in his *History of the City of Brooklyn*, vol. iii., pp. 504-540, gives much information regarding the Brooklyn ferries. See also *An Historical Sketch of Fulton Ferry and its associate Ferries, by a Director* (H. E. Pierrepont).

‡ McMaster, *United States*, vol. i., pp. 435-436. Writing to Jefferson January 9, 1785, Madison says: "J. Rumsey, by a memorial to the last

* McMaster, vol. i., p. 54.

† Lamb, *City of New York*, vol. ii., p. 286.

several trials, John Fitch made a successful trip on the Delaware at Philadelphia, in a vessel 45 feet long and 12 feet beam, with an engine having a 12-inch cylinder. In 1788 and 1790 larger vessels were built and throughout the summer one was run as a passenger boat at 8 miles an hour to Burlington, 20 miles distant, to Bristol, Bordentown and Trenton.* In the summer of 1796, Fitch gave the first demonstration of a steamboat with a screw propeller on the Collect Pond, New York. The boat was 18 feet long and 6 feet beam and its boiler was a 10- or 12-gallon iron pot.† Before 1800 Elijah Ormsbee, a Rhode Island mechanic, sailed up the Seekonk River in a boat driven by paddles, and Samuel Morey steamed

up the Connecticut in a boat of his own design and construction. In 1804 John Stevens built a boat in which he placed a Watt engine and made several trips on the Hudson, and in the same year Oliver Evans ran a paddle wheel vessel on the Delaware and the Schuylkill.*

Further up the State were Albany; Poughkeepsie, which was prosperous enough to support a weekly journal; Troy, a settlement of a few houses, as were also Tarrytown and Newburg. Albany was purely a Dutch town. Its principal streets ran parallel with the river, were wide, unpaved, and during the winter and early spring, when the snows were thawing, heavy with mud. The business district centred about Pearl and Water Streets. The houses, built three sides of wood and the front of brick, were constructed in the Dutch Gothic style, a novel feature being the tin gutters which extended from the roofs over the footpaths and which in rainy weather discharged the water into the unpaved streets. The valley of the Mohawk was still in its wild state. Syracuse was the haunt of wolves and foxes; Oswego was a frontier military post; on the site where Rochester now stands swarmed deer and black bear; and at Saratoga the famous mineral waters were as yet unknown, except possibly to the Indians.†

session, represented that he had invented a mechanism by which a boat might be worked with little labor, at the rate of from 25 to 40 miles a day, against a stream running at the rate of 10 miles an hour, and prayed that the disclosure of his invention might be purchased by the public. The apparent extravagance of his pretensions brought a ridicule upon them, and nothing was done. In the recess of the Assembly, he exemplified his machinery to General Washington and a few other gentlemen, who gave a certificate of the reality and importance of the invention, which opened the ears of the Assembly to a second memorial. The act gives a monopoly for ten years, reserving a right to abolish it at any time by paying £10,000. The inventor is soliciting similar acts from other States, and will not, I suppose, publish the secret till he either obtains or despairs of them."—Madison's *Works* (Congress ed.), vol. i., p. 128.

* Westcott, *Life of John Fitch, Inventor of the Steamboat* (1857); R. H. Thurston, *Growth of the Steam Engine* (1878); *Pennsylvania Historical Society Collections*, vol. i., p. 34 (May, 1851); McMaster, *United States*, vol. i., pp. 432-434.

† Lamb, *City of New York*, vol. ii., p. 424 *et seq.*

* McMaster, *United States*, vol. i., p. 50.

† *Ibid.*, vol. i., pp. 58-61.

South of New York lay Philadelphia, the most important city of the time, containing 4,600 houses and about 32,200 population. It was the richest and the most extravagant and fashionable city on the continent; its houses were elegant, the streets regularly arranged, and the pavements well kept and clean, but the carriage ways were filthy and full of dead dogs and cats, becoming the subject of satire until the street commissioners were compelled to perform their duties and render the thoroughfares clean and wholesome.* Its principal street and most fashionable walk was Chestnut Street, now the great commercial street of the city. In western Pennsylvania was the frontier post of Pittsburg, the successor of old Fort Duquesne, in 1784 numbering about 100 dwellings and about 1,000 inhabitants. It was the centre from which emigrants started for the West and from which travelers were carried in keel-boats, Kentucky flat-boats and Indian pirogues down the waters of the Ohio.†

Baltimore, Maryland, was the next important city to the south of Philadelphia; Market Street was its most beautiful, gay and fashionable quarter, the rows of low rambling houses

lining which were the pride of the citizens. The houses were painted with bright colors, and here and there the succession was broken by a stately brick mansion owned by a rich merchant. The city was noted for its gayety, the favorite amusements being balls, routs and dancing assemblies.*

At the time of the Revolution the difficulties of traveling formed an important social obstacle to the union of the States, and the lack of means of rapid communication undoubtedly led to many misconceptions on the part of the inhabitants of one section of the country regarding the others. In 1783 two stage coaches sufficed to transport all the travelers between Boston and New York, and the larger part of the lighter freight. The journey usually consumed from a week to ten days, depending upon the condition of the roads. In bad weather it was often necessary that the passengers alight and, after lifting the wheels out of deep ruts, to proceed on foot until the roads again became good. Rivers like the Connecticut and the Housatonic were not yet bridged, and it was necessary to row across, except at such times as the ice was sufficiently solid to bear the weight of the coach. Oftentimes both in summer and winter passengers were spilled from boats and drowned and all considered them-

* McMaster, vol. i., pp. 64-65, note.

† See the description of the city in the *Pittsburg Gazette*, July 29, 1786; *An Early Record of Pittsburg in Historical Magazine*, vol. ii.; Craig, *History of Pittsburg*; *Journal of Thomas Chapman*, in *Historical Magazine* (June, 1869); *Autobiography of Major Samuel Forman*, in *Historical Magazine* (December, 1869).

* See Scharf, *History of Baltimore* (Baltimore, 1874); Love, *Baltimore: The Old Town and the Modern City* (Baltimore, 1895).

selves fortunate to reach New York even in a jaded and completely exhausted condition. This was the condition in the "civilized" Northern States, and in the South conditions were still worse, though probably in no part of America were conditions worse than in England and France.* Consequently, people made as few journeys as possible and then chiefly upon only the most urgent business. As the mails were unfrequent and uncertain, and the rates of postage high, letters were few and far between. Commercial dealings between the various States were inconsiderable; cities were few and small; and each little community for the most part supported itself. Under such circumstances, it was not surprising that the different States knew little about each other and were intensely prejudiced; for, save the soldiers of the Revolutionary army, the great portion of the populace lived and died without ever having seen any other section of the country than their own.

The people were intensely loyal to their State governments and in the eyes of the people the legislative assembly was the only power on earth competent to lay taxes upon them.† With the exception that a few royal governors had been expelled, the work of remodelling the State governments had not been revolutionary in its character. The case may

be stated to have been a simple retention of the freedom which, as English subjects, they had always enjoyed, but which George III. had foolishly sought to impair. When the Declaration of Independence was issued, there were three kinds of government in the colonies. Connecticut and Rhode Island were republics with governors and assemblies elected by the people; in Pennsylvania, Delaware and Maryland the assemblies were chosen by the people but the governors were appointed by the proprietories—a sort of limited hereditary monarchy; and in the other eight colonies the governors were appointed by the king, while the people elected the legislatures—vice-royalties. Upon the successful termination of the Revolution, no change was necessary in the charters of Connecticut and Rhode Island, except the omission of the king's name from legal documents; while the other colonies were compelled to frame new constitutions, most of which in their essentials followed the old colonial charters. The majority of the colonies had two branches in the legislatures, called by various names, and in most of the States a property qualification was requisite to membership in the legislature. In those States which had governors instead of executive councils, according to the new constitution, the governors (except in New York) were chosen by the legislature and a specified amount of property was required;

* Fiske, *Critical Period of American History*, pp. 61–62.

† *Ibid*, p. 63.

the governor could not be reëlected, had no veto upon the acts of the legislatures, nor power to appoint officers. Pennsylvania, Delaware, New Hampshire and Massachusetts had executive councils, but sooner or later these were replaced by governors elected by the people, and within a comparatively short time the powers of all governors were enlarged.*

The common law of England still remained in force throughout the length and breadth of the land, and all statutes enacted prior to the Revolution continued in force when not expressly repealed. In addition to the system of civil and criminal courts, the courts of probate, the functions of justice of the peace, the remedies in common law and equity, the forms of writs, all were substantially enlarged. Judges held office for life or during good behavior in all the colonies except Pennsylvania, Delaware and New Jersey, where the term was seven years, and in all the States except Georgia they were appointed either by the governor or legislature; in Georgia the judges were elected by the people for short terms.

The qualifications for suffrage were different in the various States. In New Hampshire, Pennsylvania, Delaware and South Carolina all who paid taxes could vote; in North Carolina such persons could vote for members of the lower house, but a free-

hold of 50 acres was requisite for those who voted for senators; while in Virginia only those who possessed a freehold of 50 acres could vote at all. In New York only those who possessed an unmortgaged freehold of \$250 could vote for governor or for senators, while \$50 or a yearly rent of \$10 was required to vote for assemblymen. Rhode Island required an unincumbered freehold of \$134, but in Rhode Island and Pennsylvania the eldest sons of qualified freemen could vote without paying taxes. In the other colonies a small amount of real or personal property, ranging in value from \$33 to \$200, was required.*

The social, religious, and economic conditions were only fair, even considering the long struggle through which the colonists had passed. Those who possessed libraries and those who were fond of reading perused such serious books as *The Lives of the Martyrs*; Vattel's *Law of Nations*; Watt's *Improvement of the Mind*; Rollin's *Ancient History*; *Pilgrim's Progress*, etc., and the mistress of the house was as familiar with the contents as the master. These books necessarily came from beyond the Atlantic, and three-fourths of them were by English men of letters and printed by English printers. The younger set among the women of Boston and New England paid more attention to embroidery, painting,

* Fiske, *Critical Period*, pp. 64-68.

* Fiske, *Critical Period*, pp. 69-70.

drawing and cooking than to reading; while the less rigid and austere among them spent their spare time in calling, attending quilting parties and spinning-matches, and once a fortnight going to the public dances in Concert Hall. Nearly all toiled for a living; land was closely subdivided, and there were many freeholders but few patrons. Public schools had been in existence for a long time and religious discipline was strict. The former class pretensions had been much loosened by the war; and though to a great extent possessed of an austere, fanatical spirit handed down by their Puritan progenitors, though of a narrow disposition and often niggardly in their economies, the New Englanders possessed strong backbones, much audacity and a conscientious disposition, and were thrifty to a remarkable degree.*

As before stated, Philadelphia was the most fashionable city in America. Her men were dressed in the latest of fashion and the women wore gorgeous brocades and taffetas, draped over wondrous and cumbrous hoops, tower built hats, bedecked with feathers of all descriptions and hues, high wooden heels on their shoes, fine satin petticoats and in their mouths had implanted teeth.† Select dancing assemblies were held fortnightly at £3 15s per season ticket.

In the South social customs had

scarcely changed from those in vogue in the years prior to the Revolution. The Virginia mansions were the same as before and the owners continued to serve their families and guests with the luxuries of the New World and the Old, chief among them being Madeira wine and rum. In such times as he was not attending to social functions, the rich planter devoted his energies to developing his estate and to the performance of his public duties. His son attended the nearest Anglican school, and if not sent to England for a higher education was sent to William and Mary College, after which he returned home and endeavored to secure election to the House of Deputies. Skilled mechanics were few, and as a result even the houses of the wealthy would be found with broken window panes, smoky chimneys, etc. The poor white possessed little ambition to improve his lot; he was indolent, good-natured, generous and hospitable, fond of his State and its great men and ready to fight for their honor. Cock-fights and horse-racing were favorite amusements; and politics the principal diversion from labor. The Virginia gentleman was a born politician, as indeed were most Southern planters who possessed means.*

While the state of letters was low and the fine arts neglected throughout the colonies the stage received considerable patronage, although in

* Schouler, *United States*, vol. i., pp. 8-9.

† McMaster, *United States*, vol. i., p. 65.

* Schouler, *United States*, vol. i., pp. 10-12.

many communities the theatre was proscribed. In Massachusetts stringent laws were enacted against it, while New York and Philadelphia held the stage in abhorrence and considered the players immoral. Much opposition sprang up against the theatre and all sorts of arguments were advanced for its suppression, some even going so far as to say that the country had more to fear from the theatre than from the navigation acts, the weakness of Congress and the quarrelsome disposition of the States.* A bill was introduced in the Pennsylvania Assembly to lay a heavy fine upon anyone who should put up a theatre, playhouse, stage or scaffold, wherein or whereon should be acted tragedy, comedy, tragic-comedy, farce, etc.† There was much opposition to the theatre in Boston, but after a few arrests the excitement subsided, and in 1785 a stock company erected a theatre, the shares numbering 120 at £50 sterling apiece.

Perhaps in no other section of the country did religion have such a hold on the people as in New England, for while the influence of the minister in matters of government and politics had waned since the beginning of the Revolution, he still was the guide to truth, the oracle of divine will, and a member of the most learned and respected class of the community, being regarded with profound reverence, if not with awe. After the war, he

found himself in common with his neighbors in the depths of poverty; his salary, which was meagre at best, began to be delayed in payment and then was often paid in produce; and he was forced to tutor children for college, for which he received a miserable pittance. Yet this in no wise impaired his usefulness in the community; his sermons were as bright and learned as before; and the public paid him the same amount of respect.

Some progress had been made in the direction of a more complete religious freedom. The only States in which all Christian sects stood on an equal footing were Pennsylvania and Delaware. Protestants enjoyed equal privileges in Rhode Island, but Catholics were debarred from voting. The old Puritan Congregationalism was the established religion in Massachusetts, New Hampshire and Connecticut, and in these States laws against blasphemy, which were virtually laws against heresy, were still in force. In Massachusetts, Catholic priests were liable to imprisonment for life, and anyone who should dare to speculate too freely concerning the nature of Christ or the philosophy of salvation or express doubts concerning the inspiration of the Bible, was subject to fine and imprisonment. Sabbath breakers were still arrested and confined in the town cage; unnecessary riding or driving on Sunday was prohibited, and people were forced to go to meeting whether they

* McMaster, *United States*, vol. i., p. 90.

† *Ibid*, p. 90 *et seq.*

would or not. Many attempts had been made to repeal these barbarous laws, but the best that could be done was to obtain a provision that dissenters might escape the church rate by supporting a church of their own. It was not until the early years of the Nineteenth century that church and State were finally separated in Massachusetts. The New Hampshire and Connecticut constitutions were similarly illiberal, and it was not until 1784 that Rhode Island extended the franchise to Catholics.*

In New York up to the time of the Revolution the Dutch clergymen clung to their native tongue and scarcely a word of English was heard in the Dutch churches; afterward, however, it was changed, but the change in language was not attended by a change in ceremony. The Methodist church was just now beginning to make headway in the colonies, the largest of their churches being at Albany.

In New Hampshire, Massachusetts, Connecticut, Rhode Island, Pennsylvania and Delaware the people were strongly opposed to the establishment of the Church of England, and no serious attempt was made in that direction. In New York the people languidly acquiesced in its maintenance; it was endured by the Quakers and Presbyterians of New Jersey and North Carolina, and by the Puritans and Catholics in Maryland;

while it was held in contempt in the turbulent frontier commonwealth of Georgia. But in South Carolina and Virginia it had a strong hold upon the people. When the colonies gained independence, the Episcopal Church was separated from the State, not only in South Carolina, but in all those States where it had been upheld by the British government; and in the constitutions of New Jersey, Georgia, the Carolinas, Delaware and Pennsylvania it was explicitly provided that none should be obliged to pay a church rate or attend any religious service unless he so desired. In Virginia, the already discredited clergy of the Church of England had still further discredited themselves by adhering to the royal cause during the Revolution and had lost their influence with their congregations. At the same time the Church had come to be a minority in the community, for the Scotch and Welsh Presbyterians, German Lutherans, English Quakers, and Baptists had been working their way southward from Pennsylvania and New Jersey, settling chiefly west of the Blue Ridge.*

So long as the newcomers protected the frontiers they were not molested, but when the Indians ceased to cause trouble and the various congregations began to grow and become prosperous, the church party attempted to tax them for the support of the Church of England and to

* Fiske, *Critical Period*, pp. 76-77.

* Fiske, *Critical Period*, pp. 78-80.

compel them to receive Episcopal clergymen as preachers. These denominations naturally protested, and finally in 1776 all the dissenters were released from parish rates and all forms of worship were legalized.* In 1785 the Religious Freedom Act was passed, disestablishing the Church of England, abolishing parish rates, and doing away with all religious tests. But, in turn, the persecuted became the persecutors and proceeded to confiscate the property of the Church of England under the contention that the property of the Church had been largely created by unjustifiable taxation. Its parsonages and glebe lands were sold in 1802; its parishes wiped out; and its clergy left without a calling.†

Until after the Revolution there were no bishops of the English Church in America, and between 1783 and 1785 it was difficult to see how one could be ordained, for the law compelled all who should be admitted into the ranks of the English clergy to take an oath of allegiance and acknowledge the king as the head of the Church. Numerous attempts were made to have bishops consecrated, but

without avail, and finally a constitution for the "Protestant Episcopal Church of the United States of America" was passed at a convention of the churches of the various States. At the same time a friendly letter was sent to the bishops of England urging them to secure legislation by Parliament, giving American clergymen the right to be ordained without taking the oaths of supremacy and allegiance. This was done, and accordingly three American bishops were ordained in due form. Thus the Episcopal Church in America was fairly started on its independent career.

Meanwhile the first Methodist church in America had been founded in New York in 1766. When, in 1772, Wesley sent over Francis Asbury to act as his representative in this country, there were less than 1,000 Methodists and six preachers in the country, chiefly in the Middle and Southern colonies, but because of Asbury's eloquence, this number had increased seven fold within five years. After the Revolution, the American Methodists cut loose from the English establishment, and Wesley then sent Thomas Coke out as bishop for America and in 1784 he began his work in Maryland. In December of that year, at a conference of 60 ministers at Baltimore, Asbury was chosen the first American bishop and was ordained by Coke. Thus the Methodist Church in America was organized. Four years later, the

* See Jefferson's *Notes on Virginia*, in Ford's ed. of *Jefferson's Writings*, vol. iii., p. 262.

† Fiske, *Critical Period*, pp. 79-82. On the dispute in Virginia see Hunt, *Life of Madison*, chap. ix. For Jefferson's draft of the bill for establishing religious freedom in Virginia, see Ford's ed. of *Jefferson's Writings*, vol. ii., pp. 237-239. The bill as passed is in Hening's *Statutes*, vol. xii., p. 84. See also Conway, *Edmund Randolph*, pp. 158-166; Gay, *Life of Madison*, pp. 65-70; Madison's *Works* (Congress ed.), vol. i., pp. 129-130.

Presbyterians organized their government in a general assembly which was also largely attended by Congregationalist delegates from New England. In New England the lay members were beginning to revolt against the doctrine of eternal punishment and the seeds of Unitarianism were germinating. In 1789 the first Roman Catholic Church in New England was dedicated at Boston, for so great had been the prejudice against the sect in that region that in 1784 there were only 600 Catholics in all New England. The chief stronghold of the Catholics was Maryland, where there were 20,000; in New York and New Jersey there were 1,700; in Delaware and Pennsylvania, 7,700; in the four southernmost States, 2,500; and in the French settlements along the eastern bank of the Mississippi it was calculated that there were about 12,000. In 1786 John Carroll, a cousin of Charles Carroll of Carrollton, was appointed apostolic vicar by the Pope, and subsequently became bishop of Baltimore and archbishop of the United States. By 1789 all the States had rescinded their statutes against Catholic worship.*

Education had not made great advancement. Schools for boys were held two months in the winter, the teacher being a man; the girls attended for two months in the summer and were generally taught by a woman. If the boys were fortunate,

they were sent to a seminary or an academy and thence to Harvard or Yale; but if not, the district school constituted their source of learning. Arithmetic, geography, spelling and commercial usages and customs were the principal things to be learned; political economy, geology, paleontology, etc., were almost unknown; but Latin and Greek, logic, metaphysics, rhetoric, etc., were considered necessary acquirements. In New York and Pennsylvania a schoolhouse was seldom seen outside a village or town; and in the Southern States education was sadly neglected, especially in North Carolina,* where in 1776 there were only four grammar schools and during the Revolution none.† In 1775 there were 37 newspapers in circulation throughout the colonies: 14 in New England; 4 in New York; 9 in Pennsylvania; 2 each in Virginia and North Carolina; 3 in South Carolina and 1 in Georgia. At the end of the war there were 43, and scarcely one contained any news of the times, devoting its columns chiefly to exhortations to righteousness, etc. They did, however, contain some valuable letters from different parts of the country, such scraps of information usually being extracted from private communications passing between the city inhabitants and friends in remote districts.

* On the scarcity of schools in Virginia see *Life of Archibald Alexander*, pp. 11-12.

† McMaster, *United States*, vol. i., p. 27, quoting Ramsay's *History of South Carolina*.

* Fiske, *Critical Period*, pp. 85-87.

The principal industry in the vicinity of Boston was truck-farming, upon which the Boston people depended for their daily food. Apples and pears were abundant; raspberries and strawberries grew wild; oranges and bananas were luxuries; and the tomato, cauliflower, or egg plant had not yet been cultivated. The farms were poor and ill-kept, fences were broken down and the barns mean and small; the wooden bull-plough was the chief agricultural instrument; grain was sowed broadcast and when ripe was cut with a scythe, and thrashed on the barn floor with a flail. The condition of manufactures was not encouraging. There were a few paper mills, an iron foundry or two, and a hat factory;* the whale fisheries had dropped somewhat in their importance.

The so-called "laboring" classes were in better shape than they had been for some time, even though their wages were small and in fact not half as large, considering the depreciation in the value of money. The unskilled laborer of that day received two shillings per day for his work unless laborers were scarce, in which case the price was raised; and the man who received 15 shillings per week was considered fortunate. It seems to have been the consensus of opinion that the wages of labor were at least

50 per cent. higher in 1784 than in 1774. But his existence was pitiable. His dingy home was devoid of comfort; no carpet covered the floor; there was no glass on his table, china in his closet or pictures on his walls. His rude and poor meals were served on pewter dishes and his scanty means could hardly afford even the staples, corn being three shillings per bushel, wheat at eight and six pence, pork at ten pence per pound and an assize of bread four pence, while fruits were too expensive for him to think of. His clothes were even coarser than his food.

Slavery and the slave trade still continued a source of much anxiety to many of the colonies. In 1776 negro slaves were held in all the thirteen colonies, but the fact that slaves were not so numerous in New England as in the South was due chiefly to the rigorous climate of the North, not to any sense of its immorality. The press and even the pulpit of early times regarded the transportation of savages to a civilized community as humane and Christian. But soon the sentiment in favor of abolishing this traffic began to grow, and several of the colonies, notably Virginia, in 1769, had enacted laws prohibiting the further importation of negroes to be sold into slavery. The English government, however, overruled these enactments, as "the trade was highly beneficial and advantageous to the Kingdom." When Jefferson made his first draft of the

* For Jefferson's description of conditions in Virginia, see his *Notes on Virginia*, reprinted in Ford's ed. of *Jefferson's Writings*, vol. iii., p. 111 *et seq.*

Declaration of Independence, he inserted a clause charging that the king, in order to maintain a market for the sale of human beings, had "prostituted his negative for suppressing every legislative attempt to prohibit or to restrain this execrable commerce." But this clause was omitted from the Declaration because, as Jefferson said: "Our Northern brethren also, I believe, felt a little tender under those censures; for, tho' their people have very few slaves themselves, yet they had been pretty considerable carriers of them to others." *

The sentiment for emancipation was gaining strength in all the colonies except South Carolina and Georgia, while in North Carolina the pro-slavery feeling was probably never so strong as in the southernmost States, though that State still continued its importations, in the absence of any emancipation sentiment. All the foremost statesmen of Virginia opposed a continuance of slavery, and the same was the case in Maryland; but it was easier to accomplish emancipation in the North than in the South, because the number of slaves was small.† All restraints

upon emancipation had already been removed in Delaware, and when its new constitution was adopted in 1776, that State prohibited the further introduction of slaves. In 1778 Virginia, in 1783 Maryland, and still later New Jersey prohibited the further introduction of slaves and removed all restraints upon emancipation. North Carolina sought to discourage the trade in 1786 by placing a duty of £5 on every negro imported. In 1780 Pennsylvania, in 1783 New Hampshire, and in 1784 Connecticut and Rhode Island provided that no more slaves should be brought in, and that all children of slaves born after those dates should be free, while New York went still further, in 1785 enacting that they should not only be free but should be given the franchise on the same conditions as freemen. In 1786 Virginia passed an act inflicting the death penalty on all persons convicted of kidnapping or selling into slavery any free person. In the Massachusetts constitution of 1780 was a declaration of rights asserting that all men are born free and have an equal and inalienable right to de-

* Ford's ed. of *Jefferson's Writings*, vol. i., p. 28.

† Jefferson said: "I conjecture there are 650,000 negroes in the five Southernmost states, and not 50,000 in the rest. In most of these latter effectual measures have been taken for their future emancipation. In the former, nothing is done towards that. The disposition to emancipate them is strongest in Virginia. Those who desire it, form, as yet, the minority of the whole state,

but it bears a respectable proportion to the whole in numbers & weight of character, & it is continually recruiting by the addition of nearly the whole of the young men as fast as they come into public life. * * * In Maryland & N. Carolina a very few are disposed to emancipate. In S. Carolina & Georgia not the smallest symptoms of it, but, on the contrary these two states & N. Carolina continue importations of negroes. These have been long prohibited in all the other states." — Ford's ed. of *Jefferson's Writings*, vol. iv., pp. 145-146.

fend their lives and liberties, to acquire property and to seek and obtain safety and happiness, which clause the supreme court decided was a complete abolition of slavery.*

There was no money standard for all the States; no national currency based upon a universally recognized unit. The State pound and the Spanish milled dollar were the two units of value in the various States, but the standards of coinage were different in each. In Georgia the pound contained 1,547 grains of silver; in Massachusetts, New Hampshire, Connecticut, Rhode Island, and Virginia it contained 1,289; in Pennsylvania, New Jersey, Delaware and Maryland 1,031¼; and in New York and North Carolina 966¾.† When subdivided into shillings and pence, the value of a penny was therefore very unequal in the different States. The Spanish milled dollar was the chief silver coin in general circulation and was divided into a half, quarter, eighth or sixteenth, each represented by a silver coin, containing whatever number of shillings or pence the custom or standard of the country into which it was taken demanded. In New England and Virginia the dollar was supposed to equal 6s, or 72d; 7s and 6d in Pennsylvania, New Jersey, Delaware and Maryland; 8s or 96d in New

York and North Carolina; and 4s and 8d in Georgia and South Carolina.*

Penal affairs were in a deplorable condition, the laws being especially harsh. Perhaps the worst prison in the country was the underground Newgate prison, an old worked-out copper mine near Granby, Connecticut, which was absolutely dark and reeking with filth.‡ At Northampton, Worcester, and other places in Massachusetts the jails were scarcely better, the cells being low and narrow, without light and almost without air. Though the cells in Philadelphia jails were themselves much larger, they were so crowded as to make the conditions no better; criminals of both sexes were huddled together in the same cells, without beds, oftentimes without clothing, unwashed, unshaved and generally half dead with disease. The modes of punishment consisted of the pillory, stocks, chains, whipping-post, branding, hanging by the thumbs, etc., while in Massachusetts ten crimes were punishable by death.‡

The problems before the people were many and vexatious, for the end of the war did not end the trials of the federated colonies. In addition to clearing away the wreckage resulting from several years of war, the people had to find a suitable political organization and begin seri-

* Fiske, *Critical Period*, pp. 71-75.

† See Jefferson's *Notes on the Establishment of a Money Unit, and of a Coinage for the United States*, in Ford's ed. of *Jefferson's Writings*, vol. iii., p. 449.

* McMaster, *United States*, vol. i., pp. 22-23.

‡ R. H. Phelps, *A History of the Newgate Prison* (1844).

‡ McMaster, *United States*, vol. i., pp. 98-102.

ously to exercise the privileges of independence in a manner which would show that they were capable of self-government. The war had been more than a mere contest between the colonies and the mother country, for to the rebellion had been added civil strife. It must be remembered that while a large majority of the people *sympathized* with the patriot cause, *only a small portion of the people were willing to risk life, fortune and material comfort for an ideal.* There were beside a body of Loyalists numerically almost as large as the patriot body and they were willing to risk all for the royal cause rather than prove traitors. In addition, there was a third body who cared little which side triumphed so that they were left in peace. These shifted with the wind, and were as ready, and perhaps more so, to fraternize with the English, drink their wine and receive their gold, as they were to profit by the depreciation in American currency and by the sale of supplies to the starving and half-clad American army. Little cared they whence their profit came. The civil strife was therefore one of the chief problems with which the citizens of the new nation had to deal after peace was established.

The Loyalists constituted approximately one third of the population,*

* Tyler, *The Party of the Loyalists in the American Revolution*, in *American Historical Review*, vol. i., pp. 27-29; Van Tyne, *The Loyalists in the American Revolution* pp. 94-105; Flick, *Loyalism in New York*, p. 182.

and many of them had been persons of wealth and social and political position before the war began, belonging chiefly to the conservative classes. Tens of thousands of these people were either expelled from the community or were voluntary exiles, and together with those who had died in battle or in prison, it is estimated that 100,000 men, women and children left the colonies during the war.* Of the Tories who survived the war and remained to face the ill-will of their countrymen, a large portion had been disfranchised. Consequently, in the struggle of reorganizing the political institutions of the country, America was compelled to forego the services of many of her wisest, ablest, and most substantial citizens.

The chief obstacle in the way of formulating a strong central government was the political principles held by the people themselves—it was necessary that they reconcile local liberty with central authority and real unity. The struggle for liberty had been based on “natural rights”—on the assertion that the people possessed certain inalienable rights which no government could take away, limit or transfer. Having thrown off the yoke of bad government, the people began to suspicion any government at all, and it became a difficult matter to show the necessity of restraint by a central authority—to prove that the people them-

* McLaughlin, *The Confederation and the Constitution*, pp. 38-39.

selves were the government, the possessors of the final political authority, that "government" was merely the servant of the supreme power—the people, and that to limit or restrain government or to make it weak and ineffective was to limit the people, to weaken national life and to create an anarchistic and individualistic society. There were many who believed in unenlightened individualism, caring nothing for others so long as they themselves were left alone; they could not comprehend that government was an absolutely "necessary evil," if the country was not to retrograde into a state of feudalism or worse. While it is true that State governments had been formed, save for a few changes in methods, the local authority was not so much different from the old colonial administrations. But the people were content to stop with forming these State constitutions and could see no reason to create a still higher power over all the States which could levy taxes and compel obedience—the very conditions against which they had so long fought.

The geographical position of the country both aided and retarded its political development. Its very isolation from the rest of the universe compelled the thought of unity

among its inhabitants and a common destiny. But on the other hand the colonies themselves were not continental, either in social customs, commercial and industrial activities, or political institutions. Owing to the lack of means of communication,—railroads, telegraphs, highways—and means of spreading news, the colonies were very remote from each other. The people of Georgia knew little of New Englanders, and the latter cared less for the former. Mails were very infrequent and oftentimes the people of Europe were acquainted with events in Massachusetts before the people of Georgia learned of them. Such towns as were off the main routes of travel were more isolated than the most secluded towns in the heart of the Rockies at the present time.* But to offset this, the States of the confederation were similar in structure and the people of all sections alike were saturated with the fundamental principles of English liberty and law—they all had the same political inheritance and consequently thought more or less alike. Moreover, it was coming to be seen that a properly established union was a "grinding necessity."

* McLaughlin, *The Confederation and the Constitution*, pp. 44-46.

CHAPTER II.

1783-1787.

COMMERCE; FINANCE; CURRENCY.

Deranged condition of foreign trade — Attempt to negotiate commercial treaty with Great Britain — American vessels excluded from British West Indies — Congress requests power from States to regulate commerce — Commercial treaties with other powers — Condition of the public finances — Morris's estimate of the debt — Congress requests power to lay specific duties — Address of Congress to the States regarding apportionment of debt — The domestic and foreign debt and interest — States assent to impost — Rufus King's report of 1786 — Conflicting State laws — The struggle in New York over the impost — The variety and value of coins — Morris's plan of currency — Jefferson's scheme — The struggle over paper money.

The subject of foreign commerce engaged the attention of Congress soon after the ratification of the definitive treaty of peace. The war had reduced the foreign trade of the country to almost nothing; trade, commerce, and the fisheries were gone. Foreign ports had been closed to American shipping so long that practically no demand existed for American goods. Yet the consumption of English goods was as large as ever, the imports from England to America amounting to £3,700,000 sterling in 1784, while the exports amounted to only £750,000.*

That the country was destitute and poverty stricken because of lack of foreign trade was far from the fact; the refusal to comply with the requisitions of Congress did not indicate that there was no money in the country, but principally that the people in the States were exceedingly jealous of the power of Continental Congress. That general commercial and

industrial conditions would be as flourishing as prior to the war could not be expected. The commerce of New England had necessarily become badly deranged, but even this had its compensations, for numbers of those who were then out of work went into the interior, where they opened up new industries, while still others, particularly those who followed the sea for subsistence, entered privateering enterprises, in which there was at that time a lucrative living. Numbers of the merchants, finding their foreign trade cut off and ruined, equipped their ships as privateers and made fortunes.* But after the war even this source of income was cut off and New England trade became practically stagnant. In addition the whale fisheries were ruined and the cod fisheries in bad condition, and furthermore in 1784 Parliament passed an act (25 Geo. III., c. i.), prohibiting trade with Newfoundland. Prior to the war the

* McMaster, *United States*, vol. i., p. 206.

* Weeden, *Economic and Social History of New England*, vol. ii., pp. 776-778.

New Englanders had sent large quantities of oil to London, had sold their ships to pay the debts of their merchants, and had carried on an extensive and lucrative trade with the West Indies. But now the British government, by orders in council issued at various times, had practically cut off the trade with the West Indies and the importation of oil was prohibited.* In the South, plantation life had been considerably disturbed by the carrying away of thousands of slaves by the British; the ravages of war had brought great distress upon the people, and for the first few years after the war the exports of products from Southern ports diminished in amount and value.† Nevertheless, the unemployed found other duties to perform, though of course the readjustment took some time. The privateersmen returned to their foreign trade and soon a profitable business sprang up. In 1795, 60 American vessels entered the port of Lisbon from America and foreign ports, whereas only 77 European vessels arrived from the same ports, and the volume of trade with the continental countries began to be considerable.

When the American commissioners were at Paris in 1783 negotiating the peace treaty, they had been unable to agree with the British representative regarding a commercial arrangement between the two countries. As

a result, each nation was left to make its own regulations. In March, 1783, William Pitt, then chancellor of the exchequer, introduced in Commons a bill for the temporary regulation of commerce between Great Britain and the United States, which was founded upon very liberal principles.* After stating the new relations between the two countries, this bill declared:

"And, whereas, it is highly expedient, that the intercourse between Great Britain and the said United States should be established on the most enlarged principles of reciprocal benefit to both countries, but from the distance between Great Britain and America, it must be a considerable time before any convention or treaty for establishing and regulating the trade and intercourse between Great Britain and the said United States of America, upon a permanent foundation, can, be concluded:—

"Now for the purpose of making a temporary regulation of the commerce and intercourse between Great Britain and the said United States of America, and in order to evince the disposition of Great Britain, to be on terms of the most perfect amity with the said United States of America, and in confidence of a like friendly disposition on the part of the United States towards Great Britain, be it further enacted that from and after the the ships and vessels of the subjects and citizens of the said United States of America, with the merchandize and goods on board the same, shall be admitted into all the ports of Great Britain, in the same manner as the ships and vessels of the subjects of other independent sovereign states; but the merchandize and goods on board such ships or vessels of the subjects or citizens of the said United States, being of the growth, produce or manufacture of the said United States, shall be liable to the same duties and charges only, as the same merchandizes and goods would be subject to, if they were the property of British subjects, and imported in British built ships or vessels, navigated by British natural born subjects. * * *

"And be it further enacted, that during the time aforesaid, the ships and vessels of the subjects and citizens of the said United States shall

* McLaughlin, *The Confederation and the Constitution*, pp. 73-74.

† See Drayton, *View of South Carolina*, p. 167.

* Curtis, *Constitutional History*, vol. i., p. 190.

be admitted into the ports of his majesty's islands, colonies and plantations in America, with any merchandizes or goods, of the growth, produce or manufactures of the territories of the aforesaid United States, with liberty to export from his said majesty's islands in America, to the said territories or the said United States, any merchandizes or goods whatsoever; and such merchandizes or goods, which shall be so imported into, or exported from, the said British islands, colonies or plantations in America, shall be liable to the same duties and charges only, as the same merchandizes and goods would be subject to, if they were the property of British natural born subjects, and imported, or exported, in British built ships, or vessels, navigated by British seamen.

"And be it further enacted, that during all the time herein before limited, there shall be the same drawbacks, exemptions and bounties on merchandizes and goods exported from Great Britain into the territories of the said United States of America, as are allowed in the case of exportation to the islands, plantations, or colonies, now remaining, or belonging to the crown of Great Britain in America."*

Edmund Burke heartily supported the bill, saying: "While there is an immense extent of unoccupied territory to attract the inhabitants [of the United States] to agriculture, they will not rival us in manufactures.

* * * Do not treat them as aliens. Let all prohibitory acts be repealed, and leave the Americans in every respect as they were before, in point of trade."† The bill, however, was far too liberal to be adopted by the British ministry, which is much to be regretted, as it would undoubtedly have laid the foundation for continuous peace and harmony between the two countries. The navigation interests

opposed the bill as being in the interest of the American marine, and at the expense of the English. The power of regulating commercial intercourse between the two countries was committed to the king and council.* On July 2, 1783, orders in council were issued, whereby American vessels were entirely excluded from the British West Indies,† and furthermore a number of articles, such as beef, pork, fish, etc., were not allowed to be carried to the West Indies, even in British bottoms. This prohibition was continued from time to time until 1788, when Parliament made it permanent.

It now became evident that if the American marine were to be on an equal footing with that of other countries, Congress should possess power to enact navigation acts, or acts countervailing the commercial regulations of other nations. This may easily be inferred from the sentiments expressed by various English statesmen of the period. In debating a proposition to permit American ships to carry to Great Britain nothing but the produce of the particular States of which their owners were citizens, Lord Thurlow said: "I have read an account which stated the government of America to be totally unsettled, and that each province seemed

* See Pitkin, *Civil and Political History of the United States*, vol. ii., pp. 185-188.

† Hansard, *Parliamentary Debates*, vol. xxiii., pp. 613-614.

* Fiske, *Critical Period of American History*, pp. 136-137; John Adams, *Works*, vol. i., p. 422.

† John Adams, *Works*, vol. viii., pp. 97-98; Fiske, p. 138; Bates, *Rhode Island and the Formation of the Union*, p. 100.

intent on establishing a distinct, independent and sovereign state." In his pamphlet *The Commerce of the American States*, Lord Sheffield said: "It will not be an easy matter to bring the American states to act as one nation. They are not to be feared as such by us. * * * The Act of Confederation does not enable Congress to form more than general treaties. * * * When treaties become necessary, they must be made with the states separately." On March 26, 1785, when the American commissioners proposed that a commercial treaty be negotiated, the Duke of Dorset said: "I have been instructed to learn from you what is the real nature of the powers with which you are interested — whether you are merely commissioned by Congress or whether you have received separate powers from the respective states. The apparent determination of the respective states to regulate their own separate interests renders it absolutely necessary towards forming a permanent system of commerce that my court should be informed how far the commissioners can be duly authorized to enter into any engagement with Great Britain which it may not be in the power of any one of the states to render totally fruitless and inefficient."* On April 30, 1784,

therefore, after listening to the report on the subject by a committee composed of Jefferson, Williams, Gerry of Massachusetts, Read of South Carolina, and Chase of Maryland, Congress recommended that the States vest the general government for a period of fifteen years with power to prohibit the importation into or exportation from the United States of any goods in vessels belonging to, or navigated by, the citizens of other countries, with which the United States did not then have commercial treaties. It was recommended also that Congress be vested with power to prohibit, for the same term, the subjects of any foreign nation from importing into the United States any goods or merchandise not the produce or manufacture of the dominions of the sovereign, whose subjects they were, unless such importation were

citizen who loves his country. What, then, are these means? Retaliating regulations of trade only. How are these to be effectuated? Only by harmony in the measures of the States. How is this harmony to be obtained? Only by an acquiescence of all the States in the opinion of a reasonable majority. If Congress, as they are now constituted, cannot be trusted with the power of digesting and enforcing this opinion, let them be otherwise constituted; let their numbers be increased, let them be chosen oftener, and let their period of service be shortened; or if any better medium than Congress can be proposed by which the wills of the States may be concentered, let it be substituted; or lastly, let no regulation of trade adopted by Congress be in force until it shall have been ratified by a certain proportion of the States. But let us not sacrifice the end to the means; let us not rush on to certain ruin in order to avoid a possible danger."—Letter of August 7, 1785, to Monroe, Madison's *Works* (Congress ed.), vol. i., pp. 170–171.

* Gordy, *Political History of the United States*, vol. i., pp. 39–40. Madison said: "Must we remain passive victims to foreign politics, or shall we exert the lawful means which our independence has put into our hands of extorting redress? The very question would be an affront to every

authorized by treaty.* Congress had declared that it would be impossible to obtain reciprocal advantages from other nations and that the trade of the United States would be entirely in the hands of foreigners, unless the States vested this power in Congress. Nevertheless the States were so suspicious of the powers of Congress that the powers requested were not granted, and some of the States themselves passed laws countervailing the regulation regarding the West India trade by imposing higher duties on British vessels, than on their own or those of other nations, as well as higher duties on goods imported in British bottoms.† Massachusetts, New Hampshire and Rhode Island prohibited the transportation of any goods, wares, or merchandise, grown or produced in the United States, in British ships, and Connecticut took advantage of the situation to make her trade with Great Britain entirely free.‡ These and several of the other acts were soon repealed, because the expected benefits did not accrue to the States enacting these laws. But Connecticut was not satisfied with having warded off the blow which had been aimed at Great Britain by the other New England States,

and then proceeded to tax all goods imported from other States 5 per cent.—which practically amounted to a prohibition of trade. New York also levied duties upon both Connecticut and New Jersey.*

Early in May, 1784, Congress had appointed John Adams, Jefferson and Franklin, commissioners to negotiate treaties of commerce with foreign powers.† John Adams was at that time representing the country at The Hague.‡ Franklin was in France, and in August, 1784, Jefferson arrived at Paris, where he was soon afterward joined by Adams and Franklin. One of their first tasks was to combat the lies incessantly repeated by English travelers and English newspapers about “the tumult, the anarchy, the bankruptcies, and distress of America.|| English

* That this was a heavy burden on Connecticut we learn from a speech by Oliver Ellsworth, January 4, 1788, in the Connecticut ratifying convention, when he said: “Our being tributary to our sister states is a consequence of the want of a federal system. The state of New York raises \$60,000 or \$80,000 a year by impost. Connecticut consumes one-third of the goods upon which this impost is laid, and consequently pays one-third of this sum to New York. If we import by the medium of Massachusetts, she has an impost, and to her we pay a tribute.”—*Elliot's Debates*, vol. ii., p. 189.

† Hale, *Franklin in France*, vol. ii., p. 327 *et seq.*; John Adams, *Works*, vol. viii., p. 205. The instructions to the ministers will be found in Ford's ed. of *Jefferson's Writings*, vol. iii., pp. 489–493.

‡ John Adams, *Works*, vol. i., pp. 414–415.

|| Jefferson said: “There was an enthusiasm toward us all over Europe at the moment of the peace. The torrent of lies published unremittingly in every day's London papers first made an impression and produced a coolness. The

* *Journals of Congress*, vol. iv., p. 392; McMaster, *United States*, vol. i., pp. 207–208; Curtis, *Constitutional History*, vol. i., p. 192.

† Bates, *Rhode Island and the Formation of Union*, p. 103; Fiske, *Critical Period of American History*, pp. 142–144.

‡ Gordy, *Political History of the United States*, vol. i., p. 41.

interests presented American affairs in the worst possible light: American commerce was small and controlled by English merchants; debts were uncollectable; justice was never administered; the States were disunited and the people were in revolt, etc.* Having refuted these stories, the Americans set about the serious part of their business. Congress had declared that it was important to establish treaties with Russia, Spain, Prussia, Austria, Denmark, Portugal, Saxony, Hamburg, the Ottoman Port, the Italian States, etc.,† and several provisions were determined upon, calculated to lessen the distresses and calamities of war, with respect to fishermen, agriculturists, and the like.

On September 10, 1785, a treaty was concluded between the United States and Prussia, which was ratified by Congress, May 17, 1786, and the ratifications exchanged at The Hague, in October. In this treaty it was stipulated that free ships made

absolutely free goods and no goods were to be regarded as contraband so as to justify confiscation, although the vessels carrying contraband goods might be detained until such goods were unloaded; in which case such contraband goods, being military stores, might be used by the captors, if the current price were paid for them. The treaty practically abolished blockades, for merchant and trading vessels were to be allowed to pass free and unmolested. Privateering was abolished between the two countries.* Franklin was greatly pleased with the treaty, and Washington, writing to Rochambeau, said: "The treaty of amity, which has lately taken place between the king of Prussia and the United States, makes a new era in negotiation. It is the most liberal treaty which has ever been entered into between independent powers. It is perfectly original in many of its articles; and, should its principles be considered hereafter, as the basis of connection between nations, it will operate more fully to produce a general pacification, than any measure hitherto attempted among mankind."

The duration of all these treaties was to be limited to ten years, except in particular cases where the limit was set at fifteen years. In negotiating with Spain, the commissioners were instructed not to relinquish, or

republication of these lies in most of the papers of Europe * * * carried them home to the belief of every mind. He said that the wretched state of the American credit abroad was due partly "to their real deficiencies and partly to the lies propagated by the London papers, which are probably paid for by the minister to reconcile the people to the loss of us. No paper, therefore, comes out without a dose of paragraphs against America."—See Morse, *Thomas Jefferson*, pp. 81-82. See also John Adams, *Works*, vol. viii., pp. 148-149, 282.

* McMaster, *United States*, vol. i., pp. 225-227; Morse, *Life of Franklin*, pp. 399-400; Watson, *Life and Times of Thomas Jefferson*, p. 241.

† *Secret Journals of Congress*, vol. iii., pp. 484-489, May 7, 1784; Ford's ed. of *Jefferson's Writings*, vol. i., p. 84.

* Schuyler, *American Diplomacy*, pp. 375-376. For the most important articles, see Snow, *Treaties and Topics in American Diplomacy*, pp. 113-116.

cede, under any circumstances, the right to freely navigate the Mississippi, from its source to the ocean. Adams, Franklin, and Jefferson were authorized to make and receive propositions for such treaties for a term of two years, but before they had accomplished much, another dispute had arisen and great changes had taken place, John Jay having returned to the United States to become Secretary of Foreign Affairs; Jefferson having been appointed Minister to France in place of Franklin, who desired and received permission to return home; and John Adams having been sent as ambassador to England.*

One of the most troublesome of the problems with which Congress had to contend was the finances. The total cost of the war in round figures, according to Jefferson's estimate, was \$140,000,000, but of this a large amount had been paid off, so that not more than \$42,000,000 of the domestic debt remained, and, by reducing the army, the annual expenses had been curtailed to about \$460,000.†

Early in 1783, Morris had threatened to resign because of the invective that was hurled at him, as though he were responsible for the condition of the finances. In a letter to Congress, he said: "To increase our debts while the prospect of paying

them diminishes, does not consist with my ideas of integrity. I must therefore quit a situation which becomes utterly unsupportable. * * * I should be unworthy of the confidence reposed in me by my fellow citizens if I did not explicitly declare that I will never be the minister of injustice."‡ But he finally consented to remain in his position and continued in office until November of the following year.† At this time Morris estimated the public debt, exclusive of continental paper money or arrearages in army pay and other unliquidated debts, at over \$35,327,000.‡ The States did not respond to the urgent calls sent out by Morris, and he issued another strong appeal to the governors of the States; but up to June 13 the deficiencies amounted to more than \$1,000,000, and there was also overdue interest on the debt amounting to \$3,000,000. It was estimated that during 1784 Congress would need about \$5,500,000 to settle its accounts. "How indeed," Morris asks, "would it be otherwise when all the taxes brought into the treasury since 1781 did not amount to seven hundred and fifty thousand dollars."|| During 1782 Congress had sent out requisitions for \$8,000,000, and in 1783 asked for \$2,000,000 more, but

* Wharton, *Diplomatic Correspondence of the Revolution*, vol. vi., p. 229.

† Sumner, *Financier and Finances of the Revolution*, vol. ii., p. 95 *et seq.*

‡ Wharton, *Diplomatic Correspondence of the Revolution*, vol. vi., p. 282.

|| *Ibid.*, p. 611.

* Morse, *Life of Franklin*, p. 391 *et seq.*; Hale, *Franklin in France*, vol. ii., p. 334 *et seq.*; Parton, *Life of Thomas Jefferson*, p. 283.

† McMaster, *United States*, vol. i., p. 139.

by the end of 1783 less than \$1,500,000 had been remitted by the States. A committee of Congress reported that this was due principally to the poverty and distress of the people,* but Morris says: "The people are undoubtedly able to pay, but they have easily persuaded themselves into a conviction of their own inability, and in a government like ours the belief creates the thing."† In 1782 he had also made a remark which was true of subsequent years; said he: "The necessity of the present application for money arises from the necessity of drawing by degrees the bands of authority together, establishing the power of Government over a people impatient of control, and confirming the Federal Union of the several States by correcting defects in the General Constitution."‡

In order to provide for the public expenses, Congress had early declared it to be "indispensably necessary" that power to levy duties and impose direct taxation be lodged in that body. Under the Articles of Confederation, no such power was vested in Congress, for they could only "ascertain the sums necessary to be raised for the service of the United States" and issue requisitions on the States, which were complied with or disregarded according

to the sovereign will of the States. If the States did comply, it was in their own time and at their own convenience.* So long as Congress had any credit, bills of credit had been issued, and the same applied to the States. Congress had borrowed money abroad when it became impossible to raise a dollar at home; and when the States refused to advance the money needed, it had become necessary to resort to new loans in order to pay the interest on those which had preceded. Therefore, on April 18, 1783, after a lengthy debate, Congress passed a resolution saying that it was "indispensably necessary to the restoration of public credit, and to the punctual discharge of the public debts," that Congress be vested with power to levy certain specified duties on coffee, tea, cocoa, sugar, molasses, spirits, wines and pepper, and a duty of 5 per cent. *ad valorem* on all other goods which should be imported.† The revenues thus derived were to be devoted to

* Story, *Commentaries on the Constitution*, vol. i., pp. 179-180.

† See also John Adams, *Works*, vol. viii., pp. 242-246. The tax on Madeira was to be twelve ninetieths of a dollar; on other wines, six ninetieths; on Jamaica rum, four ninetieths; on Bohea tea, six ninetieths; and on other brands, twenty-four ninetieths; on brown sugar, one ninetieth; loaf-sugar, two ninetieths; all other sugars as well as molasses and coffee, one ninetieth per gallon or pound. It was estimated that the imports amounted to 100,000 gallons of Madeira, about 2,000,000 gallons of Jamaica rum, 300,000 pounds of Bohea tea, 25,000 pounds of other teas, 200,000 pounds of coffee, and 2,000,000 gallons of molasses. McMaster, *United States*, vol. i., pp. 142-143.

* The report of April 5, 1784, in *Journals of Congress*.

† See his letter to Franklin, in Wharton, *Diplomatic Correspondence*, vol. v., p. 774.

‡ *Ibid.*

the payment of the interest and principal of the public debt solely, and term of the act was limited to twenty-five years. The collectors of the revenues were to be appointed by the States, subject to removal by Congress.* In addition the various States were requested to enact laws covering the same period of time and for the same object, so as to derive sufficient revenues to supply their proportion of \$1,500,000 annually, exclusive of duties on imports, the proportion due from each State being fixed in accordance with the Articles of Confederation.†

Up to this time the expenses of the government had never been apportioned among the States, in accordance with the rule prescribed by the Confederation. As yet no satisfactory valuation of houses and lands had been made as the difficulties of securing the necessary information seemed almost insuperable. Previously the proportions had been regulated according to the supposed num-

ber of inhabitants in each State. To remedy these conditions, Congress now proposed that the Articles be altered so that the proportions would be more equitable. The proposition of Congress was that the proportion should be governed by the number of white and other free citizens, including those bound to servitude for a term of years, and three-fifths of all other persons. In order to secure the consent of the States to this change, Congress presented an address to the various legislatures, which had been prepared by Madison, Hamilton and Ellsworth.* The object of this revenue system was to give justice to all the creditors of the United States. It was a wise and judicious movement, but the scheme was never adopted, although, as Mr. Curtis points out,† it had a remarkable effect in saving the Union from speedy dissolution, and in directing the attention of the States to the fact that a powerful central government was a great desideratum.

While this revenue system was under consideration, Congress was still struggling with the finances. About the only thing that could be done was to issue requisitions upon the States, but these continued to be evaded. From November 1, 1781, to January 1, 1786, the requisitions for the payment of interest on the domestic debt had amounted to \$10,000,000, yet,

* Curtis, *Constitutional History*, vol. i., p. 118.

† *Journals of Congress*, Feb. 12, 1783, p. 126; March 20, pp. 154, 157, 158, 160; April 18, pp. 185-189; Marshall, *Life of Washington*, vol. v., pp. 35-36; Pitkin, *Civil and Political History*, vol. ii., pp. 180-181; Hunt, *Life of Madison*, pp. 38-43. This sum of \$1,500,000 was apportioned among the States as follows:—New Hampshire, \$52,708; Massachusetts, \$224,427; Rhode Island, \$32,318; Connecticut, \$132,091; New York, \$128,242; New Jersey, \$83,358; Pennsylvania, \$205,189; Delaware, \$22,443; Maryland, \$141,517; Virginia, \$256,487; North Carolina, \$109,006; South Carolina, \$96,183; Georgia, \$16,030. For the opposition of Rhode Island to this measure, see Bates, *Rhode Island and the Formation of the Union*, p. 90 *et seq.*

* Curtis, *Constitutional History*, vol. i., p. 142 *et seq.*

† *Constitutional History*, vol. i., pp. 124-126.

according to the reports of the Treasury Board, less than \$2,500,000 (to be exact \$2,457,987.25) came into the Treasury.* For the last fourteen months of this period, the income was only \$432,897.81, thus making an average of less than \$375,000 per year, which the board declared short of the sum necessary "for the bare maintenance of the federal government on the most economical establishment and in time of profound peace."† From this state of affairs it was evident that the interest of the domestic debt could not be paid, and the money obtained in Europe was devoted entirely to the payment of interest on foreign loans. Consequently, the domestic debt was deemed of so little value that many people who had claims against the government sold them for about one-tenth of their nominal value.

At the beginning of 1783 the domestic debt of the country was \$34,115,290, and the foreign debt \$7,885,085, making a total of \$42,000,375, on which the annual interest was \$2,415,956.‡ Of the foreign debt \$7,037,-

037 was due in France; \$671,000 in Holland and \$150,000 in Spain; while a year's interest had not been paid on the Dutch loan of 10,000,000 livres, amounting to \$26,848. The first installment of the principal became due in 1787, and from that year \$1,000,000 was due annually until the debt was extinguished. In 1784 the arrears of interest on the domestic debt amounted to \$3,109,000, but by 1789 these had increased to \$11,493,858, while the principal alone of the foreign debt rose from less than \$8,000,000 to \$10,098,707 in the same time.* It was therefore determined to devise means for meeting the obligations. That part of the plan which stipulated that the States should raise internal revenues for a period of twenty-five years met with much opposition;† and, becoming satisfied that it would be impossible to secure a general compliance with this part of the financial system, Congress confined their requests for power to lay duties on imports, to which some of the States finally yielded a reluctant consent. Delaware gave her consent provided all the other States consented; North Carolina readily as-

* McMaster, *United States*, vol. i., pp. 356-357.

† See the Report of the Committee in *Journals of Congress*, February 15, 1786, vol. xi., pp. 34-40. See also Curtis, *Constitutional History*, vol. i., p. 164; J. P. Gordy, *Political History of the United States*, vol. i., p. 35.

‡ Curtis, *Constitutional History*, vol. i., p. 115; McMaster, *United States*, vol. i., p. 356. McMaster's dates and figures are evidently wrong. He says the debt in 1786 was \$42,000,325, of which \$7,885,035 was owed abroad, but he gives the interest the same. Curtis' figures of the foreign debt do not bring the total as given by him. The figures as given by the Committee under date of

April 8, 1783, bring the total domestic debt to \$26,615,290. See Hunt's ed. of Madison's *Writings*, vol. i., p. 443.

* Charles J. Bullock, *Finances of the United States, 1775-1789, with Especial Reference to the Budget*, pp. 145, note, 181 (in *University of Wisconsin Bulletins in Economics, Political Science and History*, series i., no. 2).

† For some of the arguments for and against it see McMaster, vol. i., pp. 145-147, 266-267; Bancroft, vol. iv., pp. 185-193.

sented to all the requests of Congress; Massachusetts granted the general impost, but withheld the supplementary funds, as did New Hampshire, Connecticut, New Jersey, Virginia, South Carolina, and Pennsylvania, but the last named stipulated that she would collect these moneys as the legislature saw fit. New York, Rhode Island, Maryland, and Georgia at first refused to sanction the proposed revenue system, as they were unwilling that the national treasury should receive the sums collected at New York, Providence, Baltimore and Savannah, to the exclusion of the State treasuries.*

Congress therefore appointed a committee to examine into the state of the finances and report on the best method by which the debt might be discharged. The report of this committee recommended the impost as the most feasible plan and earnestly advised those States which had not already consented to yield at once. A new committee of five was appointed to consider the matter, and the report of this committee was presented by Rufus King, February 15, 1786. In this report King said that the system of imposts was the best system of collecting revenue that Congress could devise and that the States should adopt it at once. He further

said that "the requisitions of Congress for eight years past have been so irregular in their operations, so uncertain in their collection, and so evidently unproductive, that a reliance on them in future, as a source from whence moneys are to be drawn to discharge the engagements of the Confederacy, definite as they are in time and amount, *would be no less dishonorable to the understandings of those who entertained such confidence, than it would be dangerous to the welfare and peace of the Union.* The Committee are therefore seriously impressed with the indispensable obligation that Congress are under, of representing to the immediate and impartial consideration of the several states the utter impossibility of maintaining and preserving the faith of the federal government, by temporary requisitions on the states, and the consequent necessity of an early and complete accession of all the states to the revenue system of the 18th of April, 1783." The Committee said also: "It has become the duty of Congress to declare most explicitly, that the crisis has arrived, when the people of these United States, by whose will and for whose benefit the federal government was instituted, must decide whether they will support their rank as a nation, by maintaining the public faith at home and abroad; or whether, for want of a timely exertion in establishing a general revenue and thereby giving strength to the confederacy,

* McMaster, *United States*, vol. i., p. 357; Bates, *Rhode Island and the Formation of the Union*, pp. 96-99; McLaughlin, *The Confederation and the Constitution*, p. 80; Curtis, *Constitutional History*, vol. i., p. 194.

they will hazard not only the existence of the Union, but of those great and invaluable privileges for which they have so arduously and so honorably contended.”* This report was adopted and a set of resolutions drawn up and passed.

The House then turned its attention to the regulation of trade, and a committee was appointed to examine the acts of the various States. This committee reported that the acts were confusing and conflicting and clogged with many restrictive conditions.† North Carolina, while assenting to all the requests of Congress, had made a condition that, when the other twelve States did likewise, the regulation of trade by Congress should become an article of the Confederation. Connecticut, Pennsylvania, and Maryland set a date when the act was to become effective; Rhode Island restricted the duration of the act to twenty-five years; Massachusetts, New York, New Jersey, and Virginia would not consent to have the act go into operation within their borders until it had been adopted by all. Delaware, South Carolina, and Georgia had not given the request any consideration; and New Hampshire determined the manner in which the

act should be enforced, granting the power to regulate trade by restrictions on duties.* Congress therefore asked the States to make the various laws uniform.†

New Jersey now became disgruntled and refused to pay her share of the requisition of \$3,000,000 made in September, 1785, claiming that the levy was unjust and that the Confederation was not protecting her from the encroachments and the ill-usage of New York. As New Jersey's share of the requisition was \$166,716, Congress could not afford to lose it; for even if the sum were paid, there would still be a deficit. So a committee, of which Nathaniel Gorham, William Grayson and Charles Pinckney were members, was sent by Congress to expostulate with the Legislature of New Jersey, Pinckney making the principal speech. As a result of the visit, New Jersey rescinded her acts refusing to pay her quota, but she instituted no measures to provide funds to meet the requisitions, nor was such action taken until five months later.‡

Meanwhile New York had granted the impost. This was due principally to the efforts of Alexander Hamilton. He drew up a petition to the Legislature declaring that all the motives of public honor and reputation demanded that New York act favor-

* *Journals of Congress*, vol. xi., pp. 34-40.

† As Madison said: "The States are every day giving proofs that separate regulations are more likely to set them by the ears than to attain the common object."—Hunt's ed. of *Madison's Writings*, vol. ii., p. 227. See also Story, *Commentaries on the Constitution*, vol. i., pp. 184-185 (5th ed.).

* McMaster, *United States*, vol. i., p. 361; Bates, *Rhode Island and the Formation of the Union*, pp. 104-105.

† *Journals of Congress*, vol. xi., p. 41.

‡ McMaster, *United States*, vol. i., pp. 362-366.

ably.* He induced large numbers to sign the petition; wrote pamphlets in favor of the impost; and advocated it in the press. Governor George Clinton, however, had used all his influence and ability to make New York the richest and the most powerful State in the country; and, considering that the impost would drag the State down to the level of the others, he labored mightily to have the Legislature refuse assent to the act. But on May 4, 1786, after much debate, the Legislature passed the act, though a clause was inserted which made the grant of the impost practically useless; for, instead of vesting Congress with the power of levying the duties, this right was reserved to the State itself. The Legislature also made a condition that the collectors of the duty should be appointed by the State and should not be amenable to Congress.† Thereupon, when considering this matter in August, Congress determined to have the State amend the act, and, as the Legislature had adjourned, sent a request to Clinton to call a special session. On August 16 Clinton replied that, according to the Constitution of New York, he could convene the Legislature only on "extraordinary occasions"; and as the present business had often been before the Assembly during the late session, he did not consider that

an "extraordinary occasion" existed. Later, in August, Congress sent him a second and more earnest application to reconvene the Legislature, but he made the same reply.* In the early part of 1787 the matter was again taken up by the Legislature, but on February 15, despite the endeavors of Hamilton to secure its passage, the measure was thrown out by a vote of 36 to 21.†

There had been much discussion also in connection with the founding of a system of national coinage. As previously stated, coins of the same denomination were differently valued in the various colonies and there was also a large variety of coins, which, except coppers, were the product of foreign mints, including English guineas, crowns, shillings, and pence, and many French and Spanish and some German coins. Of the Spanish coins, probably the most valuable in general circulation, was the Johannes, called the "Joe," valued at about \$16; next came the doubloon at \$15; then the half-joe at \$8; the double Spanish pistole at \$7⁴³/₁₀₀, and the pistole at half that value. Other gold coins were the moidore at \$6; the English guinea and half-guinea, the French guinea, the Carolin, the five and two and one-half moidore, the double Johannes, the Chequin, the quarter and eighth Johannes, and the French pistole. The silver coins

* Hamilton's ed. of *Hamilton's Works*, vol. ii., pp. 333-334.

† McMaster, *United States*, vol. i., pp. 368-370.

* Bancroft, vol. vi., pp. 193-194; McMaster, p. 370.

† McMaster, p. 398.

included the Spanish milled dollar, the half, quarter, eighth and sixteenth dollars, the English crown, the French crown, the English shilling; the sixpence and the Pistareen. The

coppers were pennies and French sous.* Each of these coins was of a different value according to locality, the values being given by McMaster† as follows:

COIN	Sterling money	New England and Virginia	New York and North Carolina	New Jersey, Pennsylvania, Delaware and Maryland	South Carolina and Georgia
GOLD	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Johannes.....	3 12 0	4 16 0	6 8 0	6 0 0	4 0 0
Half-Johannes.....	1 16 0	2 8 0	3 4 0	3 0 0	2 0 0
Doubloon.....	3 6 0	4 8 0	5 16 0	5 12 6	3 10 0
Moidore.....	1 7 0	1 16 0	2 8 0	2 5 0	1 8 0
English guinea.....	1 1 0	1 8 0	1 17 0	1 15 0	1 1 9
French guinea.....	1 1 0	1 7 6	1 16 0	1 14 6	1 1 5
Spanish pistole.....	0 16 6	1 2 0	1 9 0	1 8 0	0 18 0
French pistole.....	0 16 0	1 2 0	1 8 0	1 7 6	0 17 6
SILVER					
Crown.....	0 5 0	0 6 8	0 8 9	0 8 3	0 5 0
Dollar.....	0 4 6	0 6 0	0 8 0	0 7 6	0 4 8
Shilling.....	0 1 0	0 1 4	0 1 9	0 1 8	0 1 0
Sixpence.....	0 0 6	0 0 8	0 0 10½	0 0 10	0 0 6
Pistareen.....	0 0 10¼	0 1 2	0 1 7	0 1 6	0 0 11

Thus it will be seen that a man traveling from Boston to Charleston would pay a bill at Boston with a silver dollar valued at 6 shillings, in New York at 8 shillings, in Philadelphia at 7s. 6d., and in Charleston at 4s. 8d. That something should be done speedily to rectify this was readily apparent, and the subject was debated in Congress. On January 7, 1782, a resolution was passed instructing Robert Morris to submit a statement of the valuation at which the Treasury Department would accept foreign coins. Morris submitted the report, including also a plan for the creation of a national

currency drawn up by Gouverneur Morris.‡ Nothing came of this report in 1782, and the same was the case when the money question was taken up in 1783, being again laid aside for a year.

Morris' plan of currency was to have the new coins as nearly as possible like those in use, so as not to confuse tradespeople, to have the unit of value small, and to have the money increase in decimal ratio. For coinage purposes, he would have 10

* McMaster, vol. i., pp. 190-191.

† *United States*, vol. i., p. 191.

‡ McMaster, *United States*, vol. i., p. 195; Sparks, *Gouverneur Morris*, vol. i., p. 273 *et seq.*

quarters: a quarter was to be the unit, and 10 of them should make a penny (10 units); 10 pence a bill (100 units); 10 bills a dollar (1,000 units); 10 dollars a crown (10,000 units) (American, not English).^{*} When the matter was again taken up by Congress, it was referred to a committee of which Jefferson was a member.[†] Jefferson said Morris' scheme was sound, but needed modifications in a few particulars. He took the dollar as the unit and suggested that eight coins be struck; a \$10 gold piece equal to 10 silver dollars; the silver dollar or unit; the silver half-dollar; the silver double-tenth; the silver five copper piece; and the copper or one-hundredth part of a dollar.[‡] This scheme was favorably reported to Congress, but again the matter was dropped for a year, and it was not until July 6, 1785, that Congress reached a definite decision, at that time adopting the dollar as the unit and making the smallest coin a half-penny or two-hundredth part of a dollar. Thus Morris' plan, as revised and amended by Jefferson, became the basis for our national currency.

But there were many people who were not satisfied with a coin currency exclusively and must needs have pa-

per as a medium of exchange. Coin had become scarce and it was not difficult for the paper-money party to gain converts, the legislatures of several of the States soon counting a majority of their members as paper-money advocates.^{*} As soon as they secured power, bills were introduced for the issue of paper and hurried through with all possible speed, and only in a few cases was the opposition able to muster sufficient strength to combat these bills. In Maryland the struggle was bitter and protracted. The House of Deputies elected in 1786 was composed almost exclusively of paper-money men, but the Senate still had a majority of members favorable to hard money. The House passed a bill for the issue of credit bills, but the Senate threw it out, and no conclusion was reached. The subject of paper money then became an issue in the fall election of 1787.[†]

In Pennsylvania there was scarcely any opposition worthy to be so called, the only vigorous attack on the paper

^{*} In 1787 a letter was published in the *New Haven Gazette* advising what persons should be chosen for Assemblymen: "Choose * * * men of simplicity, not men of shrewdness and learning; choose men that are somewhat in debt themselves, that they may not be too strenuous in having laws made or executed for collection of debts; nothing puts a poor, honest man so much out of ready money as being sued, and sheriffs after him. Choose such men as will make a bank of paper money, big enough to pay all our debts, which will sink itself (that will be so much clear gain to the state)."—See Libby, *Geographical Distribution of the Vote of the Thirteen States on the Federal Constitution*, p. 58.

[†] McMaster, *United States*, vol. i., pp. 283-284.

^{*} Roosevelt, *Gouverneur Morris*, pp. 106-107.

[†] Ford's ed. of *Jefferson's Writings*, vol. iii., pp. 446-457.

[‡] McMaster, *United States*, vol. i., pp. 197-198. See also Watson, *Life and Times of Thomas Jefferson*, pp. 238-239; Roosevelt, *Gouverneur Morris*, pp. 107-108; Ford's ed. of *Jefferson's Writings*, vol. i., p. 73 et seq.

money being made by Pelatiah Webster, who issued several tracts against it, the last being published in January, 1785. But his arguments were of no avail, and the House ordered an emission of bills of credit, by May 10, 1785, bills to the amount of £7,000 having been signed with the promise that £10,000 would come out weekly. The actual emission was small, however, and though it was not made legal tender, it went into circulation by way of payments to public creditors and loans to farmers on their lands. Before August, 1786, the depreciation had reached 12 per cent.*

In North Carolina the amount issued was large and was made legal tender; but as the ordinary channels for putting the paper into circulation (paying creditors and making loans on property) were considered too sluggish, the State began to purchase tobacco, ordering its agents to pay twice as much for it in paper as the planters would ordinarily be paid in specie. Consequently, as paper was legal tender and receivable for debts, every debtor who possessed or could secure tobacco sold it to the State agent, received double specie value in paper, and then cancelled his debt which had been contracted in specie by paying his creditor paper shillings and dollars which the State had declared as good as coin. As a result, the paper began to depreciate

in value until it had reached a discount of 30 per cent.*

In South Carolina the merchants favoring paper endeavored in every way to support the credit of the new medium and denied that there was any depreciation in its value. A meeting of planters was held at Charleston at which all agreed to take paper on a par with gold and silver and pledged themselves not to buy merchandise on which an abatement was offered if payment were made in coin. At this time also an organization was formed at Charleston, called the Hint Club, the members of which singled out and watched those who favored hard money and, if their conduct were prejudicial to the cause of paper, sent them a hint that it would be well to desist, following this with forcible measures if the hint failed to produce results.†

In Georgia the opposition to paper was strong, and measures equally strong and unjust were taken to enforce its circulation. The Legislature had made paper legal tender, but before the money was actually issued a convention of mechanics, assembled at Savannah in September, 1786, protested against it, saying that they could not take the issue at par but only at so much as they could sell it for in coin. The merchants determined to support it and force it upon the community, and they

* *Ibid.* vol. i., pp. 284-285.

* *Ibid.* vol. i., pp. 285-286.

† *Ibid.* vol. i., pp. 286-287.

therefore caused a bill to be rushed through the Legislature by the terms of which the rice planters could not ship a single sack of rice out of Georgia unless they would take paper in payment, it being further stipulated that no produce could be exported out of the State, unless accompanied by a sworn statement, signed by the planter and merchant, to the effect that neither had refused to accept paper money at the face value.*

In Virginia there was little trouble as the people did not especially care for a paper currency, and when a bill to make paper legal tender came before the House of Delegates in November, 1786, it was defeated by a vote of 85 to 17.† This was chiefly due to James Madison. The cheap-money faction in Virginia was strong and persistent, but the conservative element under the leadership of Madison finally succeeded in bringing the people to their way of thinking.‡ He declared the issuance of paper money pernicious, destructive, and discouraging to commerce, morals and government, and disgraceful to mankind. He induced the Virginia House to pass a resolution that an emission of paper money would be "unjust, impolitic, destructive of public and private confidence and of that virtue which is the basis of

Republican Government."* Madison finally consented to a plan allowing the taxes for the year to be paid in "inspectors' receipts or notes for good merchantable crop tobacco," † because he feared that "some greater evil under the name of relief to the people would be substituted." ‡

New York was split in twain on the issue. One party consisted of the importers, the creditors, the holders of stock, and the moneyed men who favored specie, while the paper party consisted of the shopkeepers in the large cities, the country merchants, the manufacturers and the debtors. The paper advocates introduced a bill in the Legislature and a newspaper and pamphlet war followed. One of the most widely read pamphlets was Paine's *Dissertations on Government; the Affairs of the Bank, and Paper Money*, in which the author of *Common Sense* displayed much argumentative ability. He said that money was money and paper was paper, and all man's inventions could not change either; gold and silver were the products of nature, while paper was the emission of art;

* Hunt's ed. of Madison's *Writings*, vol. ii., pp. 277-281. See also his letters in Madison's *Works* (Congress ed.), vol. i., pp. 239, 243-245, 253, 255-257.

† Hening, *Statutes-at-Large of Virginia*, vol. xii., p. 258.

‡ Letter to Washington, December 24, 1786, Hunt's ed. of Madison's *Writings*, vol. ii., p. 301; Madison's *Works* (Congress ed.), vol. i., pp. 256, 261, 264, 267. On the Virginia controversy see also W. Z. Ripley, *Financial History of Virginia, 1609-1776*, in *Columbia College Studies*, series iv., no. i.; Gay, *Life of Madison*, p. 70.

* *Ibid.*, vol. i., pp. 288-289.

† *Ibid.*, vol. i., pp. 289-290; Madison's *Works*, vol. i., pp. 253, 260.

‡ McLaughlin, *The Confederation and the Constitution*, p. 144 et seq.

gold and silver were valuable of themselves as metals and had all the requisites of money, while paper had none, and its only use for money purposes was as notes or promises to pay in coin; and that it was absurd to think that the simple act of a legislature expiring in a year could give paper the value and durability of gold, for if one legislature made paper a legal tender for taxes, the next legislature might refuse to accept it and thus render it valueless, while the value of gold was always there, no matter what the legislature might do. The Chamber of Commerce also protested against the enactment of the law, but petitions, protests, and pamphlets were useless as the paper advocates stood firm and a bill was passed, an emission to the amount of £200,000 York money being put out. The money did not, however, take as readily as had been expected.*

In the meantime New Jersey had issued £130,000 in paper, which was made legal tender at 7s. 6d. per dollar. As much of the trade of the inhabitants of that State was carried on at Philadelphia and New York, the paper money was offered in those cities in payment of debts, but it was refused as legal tender and soon the money began to depreciate.†

The most stubborn contests were

witnessed in the New England States, particularly Rhode Island. The favorite scheme for paying debts was the establishment of a bank of paper money. In January, 1785, an attempt was made to pass a bill in the Legislature for the establishment of such a bank, but the advocates of the scheme were not sufficiently strong to obtain the necessary votes.* In the spring elections of 1786, however, they succeeded in electing enough members to the Legislature to ensure success,† and when that body met in May the call for the land tax was remitted, the excise law suspended, and a paper bank of £100,000 ordered.‡ The paper money immediately began to depreciate, tradespeople took a heavy discount from the face value when bills were paid, and therefore the paper men rushed a forcing act through the Legislature by the terms of which those who declined to accept the paper at face value the same as gold would be fined £100 for the first offense and for the second offense would be fined the same amount and lose the rights of a freeman.¶ But rather than submit the merchants refused to make any sales, closed their shops, and for a

* Bates, *Rhode Island and the Formation of the Union*, pp. 118-122.

† *Ibid.*, p. 123.

‡ *Acts and Resolves of the General Assembly [MS] 1786-1787*, May 3, 1786; Bates, pp. 123-124.

¶ Bates, pp. 125-126; Arnold, *History of Rhode Island*, vol. ii., p. 521.

* McMaster, *United States*, vol. i., pp. 290-293.

† Fiske, *Critical Period of American History*, pp. 170-171; McMaster, *United States*, vol. i., pp. 293-294.

time business was at an end,* Providence and Newport indeed presenting a doleful appearance. The farmers thereupon retaliated by refusing to sell anything to the merchants or shopkeepers, hoping to starve the city people into submission;† street fights became daily occurrences; and finally food became so scarce in the large towns that prices soared and great distress followed.‡ The farmers persuaded the Legislature to pass a new forcing act,|| whereupon the merchants determined to test the legality of the acts in court. The case was *Trevett vs. Weedon*. Both sides were represented by eminent legal talent, and the debate was warm and conducted with great animosity. The court decided that the odious act was unconstitutional§ but the paper men called a special session of the Legislature, which, after sharply reprimanding the

judges,* took under consideration an iron-clad Test Oath as a means of enforcing their mandates regarding money. This consisted of an oath to support the paper bank and to take the paper money at par, and a long list of penalties was provided for those who declined to subscribe to the oath. Until they had taken the oath, declaring paper to be as good as gold, ship captains could neither leave nor enter port, lawyers could not practice, men could not vote, members of the Legislature could not take their seats, nor politicians run for office. But when this proposition was placed before the people even some of the advocates of paper rebelled and everywhere the oath was denounced in strong terms. Only three towns — North Kingston, Scituate and Foster — approved the measure, and in November the Test Oath was thrown out by an overwhelming majority.† At the same time four of the judges were dismissed, the forcing acts were repealed, and paper went down to about six for one.‡

In New Hampshire the paper money issue followed practically the same course. Petitions were sent to the Legislature requesting an emission of paper money, but it was pointed out that the State had no specie funds with which to back the paper and secure it from depreciation, and paper currency unsecured

* Bates, p. 127; Fiske, *Critical Period of American History*, pp. 172-175.

† Bates, p. 127; Fiske, p. 175.

‡ McMaster, *United States*, vol. i., pp. 333-335.

§ *Acts and Resolves of the General Assembly [MS] 1786-1787*, 59, August 25, 1786. One clause of the act provided that, if a creditor should refuse to take payment of debts in paper at par, the debtor might carry his rag money to court and deposit it with the judge, who must thereupon issue a certificate discharging the debt. The form of these certificates began with the words "Know Ye," and from that time the State was called Rogue's Island, the home of Know Ye men and Know Ye measures. Fiske, p. 177.

§ Bates, pp. 131-134; Brinton Coxe, *An Essay on Judicial Power and Unconstitutional Legislation*, pp. 234-248. See also James B. Thayer, *Cases on Constitutional Law*, vol. i., pp. 73-78; James M. Varnum, *The Case, Trevett against Weedon* (1787).

* Bates, pp. 134-138.

† Bates, pp. 139-141.

‡ McMaster, *United States*, vol. i., pp. 339-340.

by coin was not worth printing. The legislators therefore urged the people to build up manufactures and encourage agricultural pursuits. But the people ignored this advice and demanded a tender law, which was passed, securing the paper money with real or personal estate, and making it a legal tender for all debts. The debtors now began to avoid payment of debts and the creditors sought to levy on property, but the debtors evaded this by transferring the property, and as a result the courts became clogged with suits. The people then cried out against the courts, saying that there were too many judges, lawyers, etc.* Soon acts of violence became common, culminating in September in the attempt of an armed mob of 100 men to coerce the General Court (or Legislature) into enacting a law in accordance with its desires. Upon the General Court's refusal, its members were held prisoners until relieved by the State troops, when over 40 of the malecontents were placed under arrest. The Legislature then proposed a plan for an issue of paper and sent it to the towns for ratification, but it was defeated. It was next decided that the Legislature had no power to make paper legal tender for debts contracted prior to the passage of the act and also that no good plan

had yet been proposed as a proper basis for a paper currency.*

Conditions in Vermont were in a chaotic state. She was not as yet a member of the Union, and indeed had no well defined limits or stable government. During the war, the inhabitants of the southern counties of the territory known as the New Hampshire Grants had seceded from New Hampshire, chosen an Assembly, elected a governor, and formed a State which they called "New Connecticut, alias Vermont."† New Hampshire shortly afterward acknowledged her independence, but her peace was soon disturbed by the claims of New Yorkers who had settled in the territory, built villages and towns, and paid taxes to New York. The latter State determined to protect the communities thus settled by the "Yorkers," and the following seven years showed a shameful record of barbarous warfare that would overshadow the famous Indian atrocities. In 1784, however, New York abandoned her claims and the Vermonters were left to govern their State as they saw fit. But the inhabitants were impoverished and discontented, and in the summer of 1786 broke out into open rebellion. The Legislature then attempted to correct matters by passing a Specific Tender Act, by which creditors were

* Belknap, *History of New Hampshire*, vol. ii., p. 457 *et seq.*

* McMaster, *United States*, vol. i., pp. 341-347; Bell, *History of Exeter*, p. 96 *et seq.*; Hamilton, *History of the Republic*, vol. iii., p. 156.

† Hall, *History of Eastern Vermont*, vol. i., p. 253; Slade, *Vermont State Papers*, pp. 68-73.

forced to take in payment of debts such articles of personal property as the debtor agreed to give, but as most of the debtors were destitute of personal property the measure afforded little relief. Judge Nathaniel Chipman then drew up a set of resolutions, which the Legislature passed, providing that the freemen of each town should meet on the first Tuesday in January, 1787, and vote on the two propositions: whether paper money should be issued and whether the Tender Act should be continued. While this bill for relief was under debate the Court of Common Pleas at Windsor was attacked, but the mob was dispersed by the sheriff; the Superior Court was then broken up; and even after the bill was passed the County Court was assaulted at Rutland. At the latter place an armed multitude surrounded the courthouse and ordered the judges to adjourn *sine die*, but they refused and for two hours were kept prisoners in the courthouse by the mob. The mob soon grew tired of guarding the judges and allowed them to depart, sending a committee to wait upon them and present their demands, but early the next morning the militia was assembled and after a little bloodshed the mob was dispersed.*

There was much trouble over the

coins then in use, particularly in New York, Rhode Island, and New Jersey, where there were a large number of counterfeits. So many base pennies and half-pennies had been circulated in Rhode Island that it was found necessary to pass an act imposing a fine of six shillings for every spurious coin taken. On March 3, 1787, a committee of the New York Assembly rendered an elaborate report showing conditions of coin circulation in that State and estimating the loss suffered. In January, 1786, the New Jersey Legislature had passed an act providing that fifteen coppers should constitute a shilling, but later from twenty to thirty were demanded.* For correcting these evils Congress had had several measures under consideration. In the summer of 1785 (July 6) two copper coins — a penny at 100 to the dollar and a half-penny at 200 to the dollar — had been ordered struck, but none had been put into circulation. On August 6, 1786, a national currency act was passed, which adopted the decimal system and provided that eight coins should be made with the mill as the lowest money of account. The copper coins were to be cents and half-cents; the silver coins dimes, double dimes, half-dollars and dollars; and the gold coins eagles and half-eagles. The dollar was to contain 375 grains of pure silver and the eagle a fraction over 246¼ grains of gold. This

* Caverly, *History of Pittsford*, pp. 252-258; Hall, *History of Eastern Vermont*; McMaster, *United States*, vol. i., pp. 347-355; Hollister, *History of Pawlet*.

* McMaster, *United States*, vol. i., pp. 400-403.

did not remedy the evil, however, and on October 16, 1786, an act was passed providing that foreign coppers should cease to pass current in the United States after September 1, 1787. But this did not have the de-

sired effect; foreign coins still continued to be circulated, and it was not until after the act creating the United States mint had been passed on April 2, 1792, that relief was afforded.*

CHAPTER III.

1783-1787.

FOREIGN AFFAIRS.

Dispute over carrying out the terms of the treaty of 1783 — Debts owed to English merchants — Confiscated property — England accused of violating treaty — Recommendations of Congress treated with Contempt — John Adams sent to England — His instructions — His treatment in England — Negotiations with Lord Carmarthen — States repeal conflicting Laws — Adams' return — Dispute with Spain regarding navigation of the Mississippi — Negotiations between Gardoqui and Jay — Action in the Western States — Retaliatory expedition under George Rogers Clark — Dispute compromised — Debates in Congress — Dispute with the Barbary Powers — Treaty concluded.

The foreign relations of the country were in a condition almost as unsatisfactory as were the finances, and here again Congress displayed its incompetence, making it extremely difficult to satisfactorily adjust the differences with other nations.

Almost immediately after Congress had assembled in January, 1784, a dispute arose over the carrying out of the terms of the treaty of 1783, Great Britain charging the United States with infringing the fourth, fifth and sixth articles pertaining to the payment of debts, confiscation of property, and the persecution of individuals (Tories) for the part they had taken during the war. When the Revolution began, it was estimated that the colonists owed British merchants about £3,000,000

sterling,† and during the war much property belonging to Loyalists had been confiscated.‡ Upon the termination of the war, it was ascertained that on the statute books of five States were laws prohibiting the recovery of the principal of the debts, the recovery of interest, or the transferring of land in payment in place of money. As Congress had no power to enforce the treaty of peace, that body could only send a recommendation to the States asking that such laws as interfered with the terms of the treaty should be re-

* *Ibid*, vol. i., pp. 403-404.

† Curtis, *Constitutional History*, vol. i., pp. 170-171.

‡ On the treatment of the Loyalists, see Flick, *Loyalism in New York*, chap. ix.; Van Tyne, *Loyalists in the American Revolution*, chap. xiii.; Fiske, *Critical Period of American History*, p. 119 *et seq.*

pealed. As Mr. Curtis remarks, this treaty "could not execute itself. It was made, on the one side, by a power capable of performing, but also capable of waiting for the performance of the obligations which rested upon the other contracting party. On the other side, it was made by a power possessed of very imperfect means of performance, yet standing in constant need of the benefit which a full compliance with its obligations would insure. After the lapse of three years from the signature of the preliminary articles, and of more than two years from that of the definitive treaty, the military posts in the western country were still held by British garrisons, avowedly on account of the infractions of the treaty on our part."*

Congress therefore passed a resolution on the subject of confiscated property, taking the middle course, as suggested by John Adams, by recommending that the States seize no more goods and property belonging to Loyalists and put no obstacles in the way of their recovering that already confiscated. This raised a storm of protest throughout the country and divided the inhabitants into three parties: those Tories, who wished to regain their property and former rights and power; those violent Whigs, who desired to drive the Tories from the country; and those moderate Whigs, who advocated a

less rigorous interpretation of the laws, first, because if the Loyalists were driven from the country they would settle in Nova Scotia and destroy the American fisheries, second, because they thought the Tories, if allowed to remain, would contribute to the prosperity of the country, and third, because they knew the Tories had no political influence.* Believing that there was little prospect of obtaining justice in this country, many of the Tories departed for England, hoping that the king, for whom they had suffered, would care for them until their affairs should assume their previous condition. Others went to Florida, then a Spanish possession; others to Canada and Bermuda;† while a few turned pirates, infesting the waters of Chesapeake Bay.‡ In the main, the hopes of the refugees were blasted. While making some small donations to relieve their sufferings, the king practically turned a deaf ear to their entreaties and ignored their claims for damages. They also received a somewhat cold treatment in Canada.

On the other hand the English army was accused of taking away a large number of negroes, in violation of the seventh article of the treaty, and when remonstrance was made it was claimed that the negroes were freemen and went voluntarily, and that therefore the British com-

* McMaster, *United States*, vol. i., pp. 108-109.

† Fiske, *Critical Period*, p. 130.

‡ McMaster, vol. i., p. 112.

* Curtis, *Constitutional History*, vol. i., p. 173.

mander could not lend his aid in remanding such persons to slavery.* The Whigs denied this and used the breach of faith as a justification for many sharp acts against the refugees. Many of the States re-enacted old laws or allowed those on the statute books to remain unchanged, the most severe laws being enacted in New York.† In addition, the British troops still retained possession of the posts from Lake Champlain to Michillimackinac. This not only gave them a decided influence over the neighboring Indians, but also enabled the English traders to retain their hold upon the fur trade of a rich and extensive region. Hence this was a point on which the Americans were peculiarly sensitive.‡

The recommendations of Congress were treated with open contempt,|| and it was no more than was to be expected under the existing political conditions.

Early in 1785, therefore, Congress resolved to send a minister-plenipotentiary to Great Britain. On February 24 of that year, John Adams, then in France, was appointed to that post, and on May 26 arrived in

London to assume his duties.* His instructions were as follows:

"You are in a respectful, but firm manner, to insist, that the United States be put, without further delay, into possession of all the posts and territories within their limits, which are now held by British garrisons; and you will take the earliest opportunity of transmitting the answer you may receive to this requisition.

"You will remonstrate against the infraction of the treaty of peace, by the exportation of negroes and other American property, contrary to the stipulations on that subject, in the seventh article of it. Upon this head, you will be supplied with various authentic papers and documents, particularly the correspondence between General Washington and others on the one part, and Sir Guy Carleton, on the other.

"You will represent to the British ministry, the strong and necessary tendency of their restrictions on our trade, to incapacitate our merchants, in a certain degree, to make remittances to them.

"You will represent in strong terms, the losses which many of our, and also of their merchants, will sustain, if the former be unreasonably and immoderately pressed for the payment of debts contracted before the war. On this subject, you will be furnished with papers, in which it is amply discussed."

The treatment accorded Adams upon his appearance is variously stated by different historians, and

* Fiske, *Critical Period*, pp. 131-132. See also John Adams, *Works*, vol. viii., pp. 249-250.

† For details see McMaster, *United States*, vol. i., p. 117 *et seq.*

‡ McLaughlin, *The Confederation and the Constitution*, pp. 101-102. See also McLaughlin, *Western Posts and British Debts*, in *Report of the American Historical Association for 1894*, pp. 413-444.

|| Pellw, *John Jay*, p. 240.

* John Adams, *Works*, vol. i., p. 418, vol. viii., pp. 229, 239. Regarding the nomination of Adams to this post, Jay wrote to the president of Congress as follows: "It cannot, in my opinion, be long before Congress will think it expedient to name a minister to the court of London. Perhaps my friends may wish to add my name to the number of candidates. If that should be the case, I request the favor of you to declare in the most explicit terms that I view the expectations of Mr. Adams on that head as founded in equity and reason, and that I will not, by any means, stand in his way. He deserves well of his country, and is very able to serve her. It appears to me to be but fair that the disagreeable conclusions, which may be drawn from the repeal of his former commission, should be obviated, by its being restored to him."—Wharton, *Diplomatic Correspondence of the Revolution*, vol. vi., p. 457.

his own account is especially interesting.* Upon being received by the king, he said that he hoped he would be instrumental in "restoring an entire esteem, confidence, and affection; or, in better words, the old good nature and the old good humor between people, who, though separated by an ocean, and under different governments, have the same language, a similar religion, and kindred blood."

King George replied: "The moment I see such sentiments and language as yours prevail and a disposition to give this country the preference that moment I shall say, let the circumstances of language, religion, and blood have their natural and full effect."† Nevertheless, in spite of these sentiments, the representative of the youthful republic was treated with indifference and neglect, the English statesmen evidently preferring to act with haughtiness, rather than to bind the new republic to them by actions of good will and generosity. Adams says:

"Throughout the whole political history of Great Britain, this marked fault may be traced in its relations with foreign nations, but it never showed itself in more striking colors than during the first half century after the independence of the United States. The effects of the mistake then committed have been perceptible ever since. Mr. Jefferson, who soon joined Mr. Adams in London, for the purpose of carrying out, in the case of the British government, the powers vested in the commission to negotiate commercial treaties, has left his testimony of the treatment he met with at court.‡ The king turned his back

upon the American commissioners, a hint which, of course, was not lost upon the circle of his subjects in attendance.* Who can measure the extent of the influence which even so trifling an insult at this moment may have had in modifying the later opinions of the two men who were subjected to it? And in view of their subsequent career in the United States, who can fail to see how much those opinions have done, to give to America the impressions respecting Great Britain that have prevailed down to this day? Often has it happened that the caprices of men in the highest stations, have produced more serious effects upon the welfare of millions than the most elaborate policy of the wisest statesmen."†

McLaughlin says: "If English ministers were blunt and self-satisfied, no less was Adams. It never occurred to him to favor and flatter or to be ashamed of the young distracted country he represented; and in power of lucid, forceful expression, or in knowledge of public law he had few if any superiors among the English statesmen of the time."‡

On December 8, 1785, Adams presented a memorial to the British Secretary of State,|| in which he stated

* Adams says that at his first interview he was "introduced with every necessary formality, and received with some marks of attention."—John Adams, *Works*, vol. viii., p. 254. See also p. 274.

† John Adams, *Works*, vol. i., p. 420. McMaster, however, says that Adams was treated "with the same marks of honor it was customary to bestow on the ambassadors of the proudest kings" and "was much pleased with the treatment accorded him."—*United States*, vol. i., p. 234. Jefferson, on the other hand, says "it was impossible for anything to be more ungracious" than their reception by the king and queen. See Ford's ed. of *Jefferson's Writings*, vol. i., p. 89.

‡ McLaughlin, *The Confederation and the Constitution*, p. 103.

|| For Adams' reports of his various conversations preceding this and his letters to Carmarthen, see John Adams, *Works*, vol. viii., pp. 268-273, 276-278, 281-286, 286-288, 302-310, 310-314, 320-321, 322-325, 325-333.

* See John Adams, *Works*, vol. i., pp. 418-420, vol. viii., pp. 251-252.

† John Adams, *Works*, vol. viii., pp. 256-257.

‡ See Morse, *Thomas Jefferson*, pp. 79-81.

that the detention of the western posts was contrary to the treaty of peace, and that the United States required "that all his Majesty's armies and garrisons be forthwith withdrawn from the said United States, from all and every of the posts and fortresses before enumerated, and from every other port, place and harbor within the territory of the said United States, according to the true intention of the treaties aforesaid." *

On February 28, 1786, Lord Carmarthen made reply, acknowledging the detention of the posts, but saying that the United States had broken the fourth article of the treaty, by interposing impediments to the recovery of British debts in America.† He said: "The little attention to the fulfilling this engagement on the part of the subjects of the United States in general, and the direct breach of it in many particular instances, have already reduced many of the king's subjects to the utmost degree of difficulty and distress; nor have their applications for redress, to those whose situation in America naturally pointed them out as the guardians of public faith, been as yet successful in attaining them that justice, to which, on every principle of law, as well as humanity, they were clearly and indisputably entitled." In conclusion, Carmarthen said: "that

whenever America shall manifest a real determination to fulfill her part of the treaty, Great Britain will not hesitate to prove her sincerity to co-operate in whatever points depend upon her, for carrying every article of it into real and complete effect." Accompanying this reply was a statement giving details as to the manner in which infractions of the treaty had been committed by the States.

Adams immediately sent copies of this document to Congress, by which body they were referred for consideration to Jay, Secretary of Foreign Affairs. Jay could not but acknowledge that, in several particulars, the United States had violated the treaty, and that Congress were insisting that Great Britain observe the letter of a treaty, the compliance with the provisions of which by the various States, they themselves were unable to compel. Writing to Jay, Washington said: "What a misfortune it is that the British should have so well grounded a pretext for their palpable infractions, and what a disgraceful part, out of the choice of difficulties before us, are we to act!" Thereupon Congress passed resolutions requesting the States to rescind every law which conflicted with the treaty, saying in their circular letter to the States, "We have deliberately and dispassionately examined and considered the several facts and matters urged by Great Britain, as infractions of the treaty of peace, on the part of America, and

* John Adams, *Works*, vol. viii., pp. 357-358.

† For a resumé of the British argument, see McMaster, *United States*, vol. i., p. 236 *et seq.*

we regret that in some of the states, too little attention has been paid to the public faith pledged by the treaty." The majority of the States complied with the recommendation of Congress, and such laws as conflicted with the terms of the treaty were repealed. But Virginia, when repealing previous acts conflicting with the recovery of debts due British merchants, stated that those acts should not be rescinded until the governor issued a proclamation giving notice that the western posts had been evacuated by the British troops, nor until Great Britain had also taken measures to return to citizens of Virginia the negroes carried away contrary to the seventh article of the treaty, or by compensating the owners for them.

Thus the matters in dispute remained unsettled for some time, and, as the British continued to occupy the western posts,* they took advantage of the opportunity to inflame the Indian tribes of that vicinity against the Americans. This resulted in holding back emigration from the Eastern states to the West, and for some time prevented the develop-

ment of the Great Lake regions. Consequently, realizing the impossibility of concluding a favorable commercial treaty with the British, and knowing that the latter had declined to send a minister to the United States, Adams returned home in 1788. At the same time Congress passed a resolution expressing their high regard for the manner in which he had conducted the negotiations, and thanking him for the perseverance, integrity, and diligence with which he had served his country in that important post.*

Beside the difficulties with Great Britain, an open rupture between Spain and the United States seemed probable.

The trouble arose over the secret article in the British treaty. By the second article of that treaty the Southern boundary of the territory relinquished by Great Britain was the 31st parallel of latitude from the Mississippi to the Appalachicola, thence down to the Flint River, from that river to the head of the St. Mary's River, and thence to the sea.† South of this line, lay Florida, owned by Spain. England was covetous of this rich territory, and therefore a secret article was inserted, by the terms of which it was agreed that if Great Britain should recover or become possessor of West Florida, the

* On the negotiations for the evacuation of the western posts and for other events in connection with the northwest at this time, see Moore, *The Northwest Under Three Flags*, pp. 290-314, and the authorities cited, particularly: *American State Papers, Foreign Relations*, vol. i.; Stone, *Life of Joseph Brant*; *Michigan Pioneer and Historical Collections*, vol. xi.; Andrew C. McLaughlin, *Western Posts and British Debts*, in *American Historical Society Report for 1894*; English, *Life of George Rogers Clark*, vol. ii.; Pickell, *History of the Potomac Company*.

* John Adams, *Works*, vol. viii., pp. 477-478.

† Phelps, *Louisiana*, p. 149; *Journals of Congress*, vol. ix., p. 26; Ogg, *Opening of the Mississippi*, p. 397.

southern boundary of the United States should be a line run due east from the confluence of the Yazoo (or Yassous) and the Mississippi to the Appalachicola.* Thus the boundary between West Florida and the United States would be $32^{\circ} 30'$, instead of 31° , which line would intersect the Mississippi at the mouth of the Yazoo, near the present site of Vicksburg, instead of nearly fifty miles below Natchez as would the latter line. Great Britain and the United States thus virtually recognized the boundary of West Florida as $32^{\circ} 30'$, as far as they themselves were concerned, but if any other power should come into possession of the Floridas, the northern boundary was to be 31° .† By the eighth article it was agreed that the Mississippi should always be open to both English and Americans.‡

The receipt by Spain of the news of this secret article may possibly

* *Secret Journals of Congress*, vol. iii., p. 338. Executed November 30, 1782. See also *Treaties and Conventions concluded between the United States of America and other Powers*, p. 373. The American commissioners' defence of the secret article, July 18, 1803, is in John Adams, *Works*, vol. i., p. 375. App. F.

† Ogg, *Opening of the Mississippi*, p. 413. For a general discussion of the Florida boundary, see H. E. Chambers, *West Florida and its Relation to the Historical Cartography of the United States*, in *J. H. U. Studies*, series xvi., no. v.; B. A. Hindsdale, *The Establishment of the First Southern Boundary of the United States*, in *Annual Report of the American Historical Association*, 1893, pp. 331-366; Charles H. Haskins, *The Yazoo Land Companies*, in *Papers of the American Historical Association*, vol. v., pp. 395-437.

‡ *Journals of Congress*, vol. ix., p. 29.

have added to the ill-humor of that country, but her wrath needed no stimulus; she had for years been consistent and unflagging in her course of opposition to the United States. It was not long before she let it be known that she had no intention of abiding by the boundaries as agreed upon, nor of admitting that Americans had the right to freely navigate the Mississippi to its mouth. On June 25, 1784, therefore, she sent a letter to Congress which was read to that body November 19, 1784, signifying that under no circumstances would Spain allow the free navigation of the Mississippi until the limits of Louisiana and the two Floridas should be determined.* Spain said that, if American citizens attempted to navigate the river, they would only expose their vessels and produce to capture and confiscation. This threat presaged a direful contingency to the people of the West and Southwest, for the people of these sections were engaged almost entirely in agricultural pursuits and their prosperity depended upon the facility with which they could dispose of their products in the Eastern States and in Europe. Transportation by land to the East was slow and expensive, and even though the western products brought high prices in the eastern markets the profits were

* *Secret Journals of Congress*, vol. iii., pp. 517-518; Ogg, *Opening of the Mississippi*, pp. 415-416; McMaster, *United States*, vol. i., p. 372; Hunt, *Life of Madison*, p. 58.

wiped out by the cost of carriage. The water route was therefore the only practical means by which they could transport their goods to market. They could send the products in barges down the Mississippi to New Orleans or the vicinity, there load them on sea-going vessels, and thus ship them by an all-water route to the Atlantic ports. In 1784 this method was employed almost exclusively, and naturally the free and unrestricted use of the Mississippi was of vital importance.*

The fact that Spain held New Orleans had long been a source of much chagrin to the Westerners, and the acquisition of Florida in 1783 occasioned still greater alarm. Yet no real inconvenience was suffered until the dispute arose over the Florida boundary. Thereafter the Spanish held the trade upon the lower Mississippi entirely at their mercy. A custom house was established at New Orleans and the officials boarded every American boat that passed, and while the threat of confiscation was not generally put into effect, the traders were subjected to the payment of heavy tolls, and annoyed in innumerable ways. There was no way of escape, and as a result, before a year had elapsed after Florida came into Spanish possession, the trade of the Kentuckians and the Tennesseans was completely ruined.† The element of risk

was so great and the losses were so numerous by the Mississippi route, that the profits from the transactions were no greater than if the products had been shipped by the land route. Consequently, this enforced isolation placed the Southwest in a state of commercial stagnation.* Tobacco, which was worth \$9.50 in Virginia, would bring but \$2 in Kentucky, while the cost and difficulty of transportation rendered almost valueless such products as corn, fish, flour, and other food products which were abundant in the West and in great demand in the East.

The people of the Southwest appealed to Congress to extricate them from this dilemma, urging that the whole force of the nation be directed to the task of bringing Spain to terms. But the East was deaf to the appeals of the West, for that section had its own interests to subserve, and was not much concerned with the prosperity or the tribulations of the West.† Undoubtedly the great majority of the Eastern people felt that the Westerners should have the right to navigate the Mississippi, but they were not willing to sacrifice their own interests for those of Kentucky and Tennessee, and did not consider it wise to risk a rupture with Spain, by insisting upon a matter which affected but a small portion

* Ogg, *Opening of the Mississippi*, pp. 416-417.

† *Ibid.*, p. 417.

* Roosevelt, *Winning of the West*, vol. iii., p. 113 *et seq.*

† *Ibid.*, vol. iii., p. 98 *et seq.*

of the people.* Writing to Benjamin Harrison of Virginia, October 10, 1784, Washington very succinctly states the critical character of the situation as follows:

"I need not remark to you, sir, that the flanks and rear of the United States are possessed by other powers, and formidable ones, too; nor how necessary it is to apply the cement of interest to bind all parts of the Union together by insoluble bonds, especially that part of it which lies immediately west of us, with the middle states. For what ties, let me ask, should we have upon those people? How entirely unconnected with them shall we be, and what troubles may we not apprehend, if the Spaniards on their right, and Great Britain on their left, instead of throwing stumbling-blocks in their way, as they now do, should hold out lures for their trade and alliance? What, when they get strength, which will be sooner than most people conceive (from the emigration of foreigners, who will have no particular predilection toward us, as well as from the removal of our own citizens), will be the consequence of their having formed close connections with both or either of those powers, in a commercial way? It needs not, in my opinion, the gift of prophecy to foretell.

"The western states (I speak now from my own observation) stand as it were upon a pivot. The touch of a feather would turn them any way. They have looked down the Mississippi, until the Spaniards, very impolitically I think for themselves, threw difficulties in their way; and they looked that way for no other reason than because they could glide gently down the stream, without considering, perhaps, the difficulties of the voyage back again, and the time necessary to perform it in, and because they have no other means of coming to us but by long land transportations and unimproved roads. These causes have hitherto checked the industry of the present settlers; for, except the demand for provisions, occasioned by the increase of population, and a little flour which the necessities of the Spaniards compel them to buy, they have no incitements to labor. But smooth the road, and make easy the way for them, and then see what an influx of articles will be poured upon us; how amazingly our exports will be increased by them, and how amply

we shall be compensated for any trouble and expense we may encounter to effect it." *

Spain did not rest content with formal warnings; she was in earnest and determined not to relinquish her colonies even though they were strangled in her grasp. Several methods were open to her. She could institute diplomatic negotiations and settle the matter by fair and square arbitration; she could intrigue with the Indians and incite them to make life so burdensome to the western pioneers that they would return east; she could bribe the western settlers into declaring themselves independent of the Confederation. Probably the last would have been the easier course, for the Westerners were eager for gold, whether Spanish or American, and as the States had none Spain was sure to win out on a question of money resources.†

In order to settle the dispute, Congress appointed Jay, Secretary of Foreign Affairs, to go to Spain. But before he departed Don Diego de Gardoqui (or Guardoqui) came to Philadelphia as first Spanish Minister, and on July 2, 1785, presented his credentials authorizing him to treat with the United States concerning boundaries and to settle all diffi-

* Sparks' ed. of Washington's *Writings*, vol. ix., pp. 62-63. See also *Old South Leaflets*, no. xvi.; Ford's ed. of Washington's *Writings*, vol. x., p. 488; Madison's *Works* (Congress ed.), vol. i., p. 136 *et seq.*

† McLaughlin, *The Confederation and the Constitution*, pp. 93-94.

* Ogg, *Opening of the Mississippi*, pp. 418-419; Schuyler, *American Diplomacy*, pp. 270-271.

culties on that score.* On July 21, 1785, Jay had been given full discretionary powers to treat on all subjects of interest to the two nations in any way that might seem to him advisable,† but on August 25 he was more especially instructed to insist upon the recognition of the 31st parallel and the free navigation of the Mississippi, from its source to its mouth, as guaranteed in the treaty with Great Britain.‡ A long negotiation ensued,|| but Gardoqui was resolute in refusing to concede the free navigation of the Mississippi, and flatly informed Jay that the king refused to recognize the treaty of 1783 as binding. On the other hand, he offered very favorable terms for a commercial treaty with Spain.§ Finally the negotiations became so disagreeable that in desperation Jay asked Congress to appoint a committee to advise and instruct him in secret, and Rufus King, Pettit and Monroe were appointed for that purpose. Thereupon Jay set about preparing a letter on the subject to Gardoqui.

On August 3, 1786, Jay finished the statement of the difficulties he was experiencing in his negotiations with

the Spanish minister and laid it before Congress, suggesting a way by which the difficulties could be overcome. There were many reasons in favor of making such an arrangement as would open the ports of Spain to American ships, and it was felt that if Spain persisted in her stand regarding the Mississippi, it would be necessary to choose between the two alternatives—yielding or going to war. Jay made it clear that he did not consider this an ideal solution of the matter, but merely as the only one that was at all practicable. He said:

“My letters written from Spain when our affairs were the least promising, evince my opinion respecting the Mississippi, and oppose every idea of our relinquishing our right to navigate it. I entertain the same sentiments of that right and of the importance of retaining it, which I then did. Mr. Gardoqui strongly insists on our relinquishing it. We have had many conferences and much reasoning on the subject, not necessary now to detail. His concluding answer to all my arguments has steadily been, that the king will never yield that point, nor consent to any compromise about it; for that it always has been and continues to be one of their maxims of policy to exclude all mankind from their American shores. I have often reminded him that the adjacent country was filling fast with people, and that the time must and would come when they would not submit to seeing a fine river flow before their doors without using it as a highway to the sea for the transportation of their productions; that it would therefore be wise to look forward to that event, and take care not to sow in the treaty any seeds of future discord. He said that the time alluded to was far distant, and that the treaties were not to provide for contingencies so remote and future. For his part he considered the rapid settlement of that country as injurious to the states, and that they would find it necessary to check it.”

Jay therefore considered it “expedient to agree that the treaty

* *Secret Journals of Congress*, vol. iii., pp. 563-570.

† *Secret Journals of Congress*, vol. iii., p. 571.

‡ *Secret Journals of Congress*, August 25, 1785, vol. iii., pp. 585-586. See also Schnyder, *American Diplomacy*, p. 269; Pellew, *John Jay*, pp. 232-233.

|| See Ogg, *Opening of the Mississippi*, pp. 422-424.

§ Pitkin, *Political and Civil History of the United States*, vol. ii., p. 202 *et seq.*

should be limited to twenty-five or thirty years, and that one of the articles should stipulate that the United States would forbear to use the navigation of that river below their territories to the ocean." He thought the experiment worth trying, first because no treaty with Spain could be concluded unless the Mississippi question were settled in some way. In the second place he said, "as that navigation is not at present important, nor will probably become much so in less than twenty-five or thirty years, a forbearance to use it while we do not want it, is no great sacrifice." Thirdly he said: "Spain now excludes us from that navigation, and with a strong hand holds it against us. She will not yield it peaceably, and therefore we can only acquire it by war. Now as we are not prepared for a war with any power; as many of the States would be little inclined to a war with Spain for that object at this day; and as such a war would for those and a variety of obvious reasons be inexpedient—it follows that Spain will, for a long space of time yet to come, exclude us from that navigation. Why, therefore, should we not (for a valuable consideration, too) consent to forbear to use what we know is not in our power to use?" Lastly he said, if the matter were not settled now and the United States and Spain should come to a parting of the ways, what were the former to do? Spain might be driven into a permanently hostile position, but the United

States could not enforce her demands by going to war, as they were not capable of conducting a war, and consequently all manner of ill treatment would be heaped upon the young nation. "The Mississippi would continue shut; France would tell us our claim to it was ill founded; the Spanish posts on its banks and even those out of Florida in our country, would be strengthened; and that nation would there bid us defiance with impunity, at least until the American nation shall become more really and truly a nation than it at present is. For unblessed with an efficient government, destitute of funds and without public credit, either at home or abroad, we should be obliged to wait in patience for better days, or plunge into an unpopular and dangerous war with very little prospect of terminating it by a peace, either advantageous or glorious." He said also that, "even if our right to that navigation, or to anything else, was expressly declared in holy writ, we should be able to provide for the enjoyment of it no otherwise than by being in capacity to repel force by force."*

Washington and a number of the other statesmen did not deem this point of prime importance at that date,† and were disposed to waive the

* See Jay's various reasons, in *Secret Journals of Congress*, vol. iv., pp. 45, 53-54; Pellew, *John Jay*, pp. 233-234.

† Writing on May 26, 1788, to John Brown, Jefferson said: "The navigation of the Mississippi was perhaps the strongest trial to which the justice of the federal government could be

right for twenty-five or thirty years, and conclude a commercial treaty at once. Writing to Washington, Henry Lee, then in Congress, said:

"We are very solicitous to form a treaty with Spain for commercial purposes. Indeed, no nation in Europe can give us conditions so advantageous to our trade as that kingdom. The carrying business they are like ourselves in, and this common source of difficulty in adjusting commercial treaties between other nations does not apply to America and Spain. But, my dear General, I do not think you go far enough. Rather than defer longer a free and liberal system of trade with Spain, why not agree to the exclusion of the Mississippi? This exclusion will not, cannot, exist longer than the infancy of the western emigrants. Therefore, to these people, what is now done cannot be important. To the Atlantic States it is highly important; for we have no prospect of bringing to a conclusion our negotiations with the court of Madrid, but by yielding the navigation of the Mississippi. The minister here is under positive instructions on that point. In all other arrangements the Spanish monarch will give to the states testimonies of his regard and friendship. And I verily believe that, if the above difficulty should be removed, we should soon experience the advantages which would flow from a connection with Spain."*

In reply to Lee, Washington said:

"The advantages with which the inland navigation of the rivers Potomac and James is pregnant must strike every mind that reasons upon the subject; but there is, I perceive, a diversity of sentiment respecting the benefits and consequences which may flow from the free and

put. If ever they thought wrong about it, I trust they have got to rights. I should think it proper for the Western country to defer pushing their right to that navigation to extremity as long as they can do without it tolerably; but that the moment it becomes absolutely necessary for them, it will become the duty of the maritime states to push it to every extremity to which they would their own right of navigating the Chesapeake, the Delaware, the Hudson, or any other water."—Ford's ed. of *Jefferson's Writings*, vol. v., p. 17.

* Sparks' ed. of *Washington's Writings*, vol. ix., p. 173, note.

immediate use of the Mississippi. My opinion of this matter has been uniformly the same; and no light in which I have been able to consider the subject is likely to change it. It is, neither to relinquish nor to push our claim to this navigation, but in the meanwhile to open *all* the communications which nature has afforded between the Atlantic States and the Western territory and to encourage the use of them to the utmost. In my judgment, it is a matter of very serious concern to the well-being of the former to make it the interest of the latter to trade with them; without which, the ties of consanguinity, which are weakening every day, will soon be no bond, and we shall be no more, a few years hence, to the inhabitants of that country, than the British and Spaniards are at this day; not so much, indeed, because commercial connections, it is well known, lead to others, and, united, are difficult to be broken. These must take place with the Spaniards if the navigation of the Mississippi is open. Clear I am that it would be for the interest of the western settlers, as low down the Ohio as the Big Kenhawa, and back to the Lakes, to bring their produce through one of the channels I have named; but the way must be cleared, and made easy and obvious to them, or else the ease with which people glide down stream will give a different bias to their thinking and acting. Whenever the new states become so populous and so extended to the westward as really to need it, there will be no power which can deprive them of the use of the Mississippi. Why, then, should we prematurely urge a matter which is displeasing and may produce disagreeable consequences, if it is our interest to let it sleep? It may require some management to quiet the restless and impetuous spirits of Kentucky, of whose conduct I am more apprehensive in this business than I am of all the opposition that will be given by the Spaniards."*

The New England States clamored for the conclusion of the treaty, as much of the western trade would then come through her ports, but the South would not throw away the affections of her Western colonies by thus abandoning them, while the Middle States

* Sparks' ed. of *Washington's Writings*, vol. ix., pp. 172-173. For similar expressions, see also pp. 180, 205, 261.

leaned toward New England.* Accordingly, on August 29, 1786, after heated debates in Congress, Jay's instructions of August 25, 1785, not to yield on this point, were rescinded by a vote of seven States against five.† An agreement was then entered into with the Spanish minister, suspending the use of the Mississippi, without relinquishing the right asserted by the United States.‡

Some of the Southerners admitted that there was no need for haste in the matter. Washington, as previously quoted, had said: "There is nothing which binds one country or one State to another but interest. Without this consent, the Western inhabitants, who more than probably will be composed in a great degree of foreigners, can have no predilection for us, and a commercial connexion is the only tie we can have upon them."|| But the majority of

the Virginians were wrathful that the North should take advantage of a commercial treaty and barter away the rights of the South. Madison thought that delay was useless and would probably precipitate strife. He thought the matter might just as well be settled at once for all time as to allow it to drag along for years, for, as he said in a letter to Jefferson, August 20, 1784, Spain "can no more finally stop the current of trade down the river than she can that of the river itself."*

Meanwhile the Mississippi Valley particularly Kentucky,† was filling up "with a degree of rapidity hitherto unknown in this country." As Lyman says: "While Congress was discussing the points of a treaty a nation was created there."‡ With patient endurance and marvellous disregard of personal danger and hardship, the pioneers were following Boone's old trail through eastern Tennessee, or floating down the Ohio to establish homes in Kentucky, until in 1785 Kentucky was supposed to contain about 20,000 inhabitants and was increasing rapidly. Laboring under the apprehension that their interests would be sacrificed to the commercial policy of the Atlantic States, the people of the West became

* McMaster, *United States*, vol. i., p. 378. See also Sparks' ed. of *Washington's Writings*, vol. ix., pp. 205-206, note; Ogg, *Opening of the Mississippi*, pp. 428-429; Gay, *Life of Madison*, p. 80 et seq.

† McLaughlin, *The Confederation and the Constitution*, p. 98; Pellet, *John Jay*, p. 239; *Secret Journals of Congress*, vol. iv., pp. 109-110, and for the various motions and proposals, pp. 81-127. Massachusetts, New Hampshire, Rhode Island, Connecticut, New York, Pennsylvania, and New Jersey voted in the affirmative, while Virginia, Maryland, Georgia, North Carolina, and South Carolina voted in the negative. See Ogg, *Opening of the Mississippi*, p. 432.

‡ See Jay's communication to Congress, October 6, 1786, *Secret Journals of Congress*, vol. iv., pp. 297-301. In this connection, see Monroe's letter to Patrick Henry, in Henry, *Life of Patrick Henry*, vol. ii., p. 291 et seq.

|| Ford's ed. of *Washington's Writings*, vol. x., p. 488.

* Hunt, *Life of Madison*, p. 59; *Madison's Works* (Congress ed.), vol. i., p. 93.

† See Jay's letter to LaFayette, in Jay, *Correspondence and Public Papers* (Johnston's ed.), vol. iii., p. 138.

‡ Lyman, *Diplomacy of the United States*, vol. i., p. 285.

greatly aroused and alarmed. Other events which now occurred further tended to excite their apprehension. On June 16, 1786, the Spanish authorities at Natchez seized a boat and cargo belonging to an American citizen, Thomas Amis, who was shipping the goods down the river for re-shipment or sale at New Orleans.* The news of this procedure aroused the impetuous spirits of the West, and they were little disposed to allow themselves to be put in a state of vassalage to the Spaniards.† “To sell us and make us vassals to the merciless Spaniards, is a grievance not to be borne,” said one.‡ Rather than this, they would march, to a man, and drive the Spaniards entirely out of the country. If the East did not see fit to join them, they were ready and able to do it themselves independently, and if necessary they would then form a confederacy of their own. They said that there were 20,000 men west of the Alleghanies prepared to rush down the Mississippi to expel the Spaniards. Great Britain stood ready to receive them, and if the Federal Government did not succor them, they would throw off all allegiance to

the United States. The latter would find too late that they were as ignorant of the great Valley of the Mississippi as England was of the American colonies at the time of the Revolution.* Writing to Madison, George Muter said: “Our people are greatly alarmed at the prospect of the navigation of the Mississippi being given up, and I have not met with one man who would be willing to give the navigation up, for ever so short a time, on any terms whatsoever.” John Campbell wrote to Madison as follows:

“The minds of all the western people are agitated on account of the proposed cession of the Mississippi navigation to Spain. Every person talks of it with indignation and reprobates it as a measure of the greatest Injustice and Despotism, declaring that if it takes place they will look upon themselves released from all Federal Obligations, and fully at Liberty to seek Alliances and connections wherever they can find them, and that the British officers at Detroit have already been tampering with them. I am apprehensive that these matters will hasten the Separation of the District of Kentucky prematurely from the other part of the State, the Inhabitants of North Carolina to the westward of Cumberland Mountain, being desirous to join the People of Kentucky in forming one State.”†

Consequently, when the Westerners heard of the twenty-five year proviso they were fully aroused.‡ George

* Dunn, *Indiana*, p. 167; Ogg, *Opening of the Mississippi*, p. 433; Gilmore, *Advance-Guard of Western Civilization*, p. 131; *Secret Journals of Congress*, vol. iv., p. 325, the pass given to Amis being on p. 326.

† Phelps, *Louisiana*, p. 152; McMaster, vol. i., pp. 382-383.

‡ This letter will be found in *Secret Journals of Congress*, vol. iv., pp. 320-321. Excerpts are given in Ogg, *Opening of the Mississippi*, p. 435 *et seq.* See also Gilmore, *Advance-Guard of Western Civilization*, p. 133 *et seq.*

* See the documents laid before Congress, April 13, 1787, *Secret Journals of Congress*, vol. iv., pp. 315-328.

† See Hunt, *Life of Madison*, p. 61.

‡ Writing to Madison from Paris, Jefferson said: “I will venture to say that the act which abandons the navigation of the Mississippi is an act of separation between the eastern and western country. It is a relinquishment of five parts out of eight of the territory of the United States; an abandonment of the fairest subject for the pay-

Rogers Clark formed a body of militia, which was enlisted for a year, and took post at Vincennes, where he retaliated against the Spanish by seizing some merchandise belonging to a Spanish storekeeper.* The Kentuckian members of the Virginia Assembly now drafted a petition to that body in the form of a protest against the proposed Jay treaty, and boldly asserted the right of the

ment of our public debts, and the chaining those debts on our own necks, *in perpetuum*. I have the utmost confidence in the honest intentions of those who concur in this measure; but I lament their want of acquaintance with the character and physical advantages of the people, who, right or wrong, will suppose their interests sacrificed on this occasion to the contrary interests of that part of the Confederacy in possession of the present power. If they declare themselves a separate people, we are incapable of a single effort to retain them. Our citizens can never be induced, either as militia or as soldiers, to go there to cut the throats of their own brothers and sons, or, rather, to be themselves the subjects instead of the perpetrators of the parricide. Nor would that country quit the cost of being retained against the will of its inhabitants, could it be done. But it cannot be done. They are able already to rescue the navigation of the Mississippi out of the hands of Spain, and to add New Orleans to their own territory. They will be joined by the inhabitants of Louisiana. This will bring on a war between them and Spain, and that will produce the question with us, whether it will not be worth our while to become parties with them in the war, in order to reunite them with us, and thus correct our error. And were I to permit my forebodings to go one step further, I should predict that the inhabitants of the United States would force their rulers to take the affirmative of that question."

* See the letter quoted in Dunn, *Indiana*, p. 163. See also Jay's report on Clark's reprisal, in *Secret Journals of Congress*, vol. iv., p. 301 *et seq.*; Roosevelt, *Winning of the West*, vol. iii., pp. 117-118; McMaster, vol. i., pp. 379-380; *Secret Journals of Congress*, vol. iv., pp. 311-313.

United States to use the Mississippi.* Madison promised to aid the Kentuckians if they would reciprocate by voting to send a delegation to the Federal Convention, which proposition was then before the Virginia Legislature, in accordance with the report of the Annapolis convention.† On November 3, 1786, the latter subject came up for consideration, and it was decided that a law in conformity with the report of the Annapolis Convention ought to be enacted. A bill was drafted, reported on November 7, and unanimously passed November 9.‡ On November 29 Madison performed his part of the compact by securing the passage of a set of resolutions, couched in language similar to that of the Kentucky petition.|| A resolution asserting the right to navigate the Mississippi was also passed in the North Carolina Legislature and sent to Congress.

On April 11, 1787, Jay reported to Congress the state of the negotiations,§ and on the following day sub-

* *Journal of the [Virginia] House of Delegates*, 1786, p. 46.

† Phelps, *Louisiana*, p. 151. Gay, however, (*Life of Madison*, p. 85), says that a bargain "implies an exchange of one thing for another, and Madison had no convictions in favor of closing the Mississippi to exchange for a service rendered on behalf of a measure for which he wished to secure votes. Moreover, no bargain was necessary."

‡ McMaster, pp. 381-382; *Journal of the [Virginia] House of Delegates*, 1786, p. 46.

|| *Journal of the House of Delegates*, 1786, pp. 66-67. See also the *Secret Journals of Congress*, vol. iv., pp. 305-328; Rives, *Life of Madison*, vol. ii., p. 159 *et seq.*; Hunt, *Life of Madison*, p. 62.

§ See Jay, *Correspondence and Public Papers*,

mitted his report on the papers from Virginia and North Carolina. The Articles of Confederation provided that the consent of nine States was necessary to ratify the treaty, but Jay asserted that he thought himself warranted by the assent of seven States in concluding the agreement for the non-usage of the Mississippi already mentioned. On the 23d the report was taken under consideration and an acrimonious debate followed. Nathaniel Gorham of Massachusetts said it would confer a lasting benefit on the Atlantic States if the Mississippi were closed to navigation, and he hoped it would be closed, but Madison accused Gorham of sectionalism, and then, growing angry, attacked the legality of Jay's actions on the ground that the votes of seven States were not sufficient authority on which to close the Mississippi.* An angry dispute followed, but in the midst of it a motion to adjourn was carried and the subject of the treaty was not broached for eighteen months.†

Meanwhile the attitude of the Barbary States was causing some anxiety. Prior to the Revolution, much of the flour and fish exported from the

United States went to the Mediterranean countries, but now the Barbary powers began to seize American vessels and imprison the seamen, demanding enormous ransoms for their release.* Algiers alone had 21 prisoners, for the release of whom \$59,496 was demanded. Agents sent to secure their liberty accomplished nothing, as America had no funds to spend in redeeming its citizens from captivity, and threats had no effect whatever. Early in February, 1786, two envoys, Thomas Barclay and John Lamb, were dispatched to Africa for the purpose of concluding treaties. But soon after they had left England on their way to Africa, a Tripolitan ambassador appeared in London and opened negotiations with Adams. He said that Turkey, Morocco, Algiers, Tripoli and Tunis owned the Mediterranean; that no foreign ships could traverse that sea until peace had been concluded; and that the United States must make treaties in the following order: Tripoli, Turkey, Algiers and Morocco. He computed the price of peace with these four countries at 120,000 guineas, besides presents, incidental charges, etc., which would bring the total to about £200,000 sterling. In the event of this sum being refused, war of the most terrible kind was threatened.† It was therefore a case

vol. iii., p. 240 *et seq.*; *Secret Journals of Congress*, vol. iv., pp. 297-301; W. H. Treseott, *Diplomatic History of the Administrations of Washington and Adams*, p. 46.

*Hunt, *Life of Madison*, p. 65.

†McMaster, *United States*, vol. i., pp. 414-416 *Secret Journals of Congress*, for the dates covering the discussion; Elliot, *Debates*, vol. v., pp. 104-105; Curtis, *Constitutional History*, vol. i., pp. 219-220.

* Eugene Schuyler, *American Diplomacy and the Furtherance of Commerce*, p. 196.

† See Ford's ed. of *Jefferson's Writings*, vol. iv., pp. 198-199, 220-221, 227-228; John Adams, *Works*, vol. viii., pp. 372-373, 374-376, 377-379.

of bribing the Barbary powers or fighting them, and Congress was too poor to do either.*

Writing to Jefferson June 6, 1786, John Adams says:

"The first question is, what will it cost us to make peace with all five of them. Set it, if you will, at five hundred thousand pounds sterling, though I doubt not it might be done for three, or perhaps for two. The second question is, what damage shall we suffer if we do not treat. Compute six or eight per cent. insurance upon all your exports and imports; compute the total loss of all the Mediterranean and Levant trade; compute the loss of one-half your trade to Portugal and Spain. The third question is, what will it cost to fight them. I answer at least half a million a year, without protecting your trade; and when you leave off fighting, you must pay as much money as it would cost you now for peace. The interest of half a million sterling is, even at six per cent., 30,000 guineas a year. For an annual interest of £30,000 sterling, then, and perhaps for £15,000 or £10,000, we can have peace, when a war would sink us annually ten times as much."†

While Adams was negotiating in London, Lamb and Barclay were making progress in Africa. Barclay's first visit to the Emperor of Morocco resulted favorably, and late in January, 1787, news arrived in London that a lasting treaty had been concluded between the United States and Morocco.‡ But when the treaty was placed before Secretary Jay, he was still busy with the Spanish treaty, and this treaty, like the

others, awaited the establishment of a national government.

Lamb, however, had completely failed in his negotiations at Algiers, for, though he had "followed for many years the Barbary trade, and seemed intimately acquainted with those States," yet he could speak nothing but English and was at such a great disadvantage that the Vekil Hadji subsequently expressed the hope that "if the Americans sent an American to Algiers to make the peace, they would send a man who could speak the Spanish or Italian language. He ridiculed much the sending of a man that no one could understand what he had to say." However this may have been, Jefferson himself said: "I am persuaded that an agent sent on this business, and so much limited in his terms, could have done nothing. But should Congress propose to try the line of negotiation again, I think they will perceive that Lamb is not a proper agent." Lamb had been politely received by the Dey, who said that he was well acquainted with the exploits of Washington, but as he never expected to see him, he hoped Congress would send a full-length portrait to be hung in his palace. His regard for Washington, however, did not diminish the prices for the release of captives, which were as follows: three captains each \$6,000; \$4,000 for the mates and passengers; and \$1,500 for each of the seamen,* beside a customary

* Schuyler, *American Diplomacy*, pp. 197-200; McMaster, *United States*, vol. i., pp. 406-408; McLaughlin, *The Confederation and the Constitution*, pp. 106-107 Fiske, *Critical Period of American History*, pp. 157-162.

† John Adams, *Works*, vol. viii., p. 400. See also pp. 406, 407, 410-412.

‡ Schuyler, *American Diplomacy*, pp. 203-204. For text, see Snow, *Treaties and Topics in American Diplomacy*, pp. 143-148.

* John Adams, *Works*, vol. viii., p. 394.

duty of 11 per cent. on the whole amount. This averaged \$2,800 per captive, while the agents had been authorized to offer only \$200.* Jefferson then attempted to obtain the release of the captives through a religious order in Paris called the Society of the Holy Trinity for the Redemption of Captives, commonly

known as Mathurins. In 1789 a sum of money was placed at their disposal, but by July, 1790, only one captive had been ransomed, while six had died. Shortly afterward the Revolution in France abolished all religious orders, and the unfortunate captives were allowed to remain in confinement for several years.*

CHAPTER IV.

1784-1789.

LAND CESSIONS; WESTERN SETTLEMENTS; NEW GOVERNMENTS.

Congress urges States to cede western territory — Cessions by New York, Massachusetts, Connecticut and South Carolina — The Virginia territory — The Ordinance of 1784 — Jefferson's scheme of erecting States — The names proposed — The slavery proviso — The Ordinance for the government of the Northwestern Territory introduced — Machinations of Ohio Company — Memorial presented to Congress by Parsons — Ordinance of 1787 passed — Cutler's negotiations with Congress regarding grant of territory — Colonizing parties sent out — Provisions of the Ordinance of 1787 — Territory South of the Ohio — North Carolina territory in the West — Act of cession passed — State of Franklin — General Sevier elected president — Dispute compromised and North Carolina authority reëstablished in State of Franklin — Restlessness in Kentucky — Petition to Virginia for separation — Various conventions — Separation authorized — Indian war in the West — Westerners discontented by the refusal of right to navigate Mississippi — Wilkinson's intrigue. Appendix to Chapter IV.— I. The Ordinance of 1787. II. Letters of Dane and King regarding authorship of Ordinance of 1787.

The western lands belonging to the various States were now beginning to be regarded as of considerable importance to the country. The majority of the people considered these western lands national property, and as one of the chief sources from which money could be derived for the payment of the national debt. Congress therefore requested the States to pass the necessary acts to cede their claims to this western territory "as well for hastening the extinguishment of the public debt, as

for establishing the harmony of the United States." There were seven States which laid claim to the western country: New York, Massachusetts, Connecticut, Virginia, North Carolina, South Carolina, and Georgia. The other six States claimed that Congress had rightful authority over the territory, but if it did not, such right should be given it. Some of the States feared the power and strength of those States which possessed immense tracts of land in the West, and at an early date (October 15, 1777),

* Schuyler, *American Diplomacy*, pp. 206-207.

* *Ibid*, pp. 207-208.

Maryland proposed that Congress should be given the right to "fix the western boundary of such States as [lay] claim to the Mississippi or south sea; and lay out the land beyond the boundary so ascertained into separate and independent States from time to time as the numbers and circumstances of the people thereof may require."* Until this were done Maryland refused to sign the Articles of Confederation. Gradually, one by one, New York, Connecticut, and Virginia signified their willingness to do this, and on March 1, 1781, Maryland's delegates in Congress signed the Articles.†

On February 19, 1780, New York ceded her territory in the West, fixing the western boundaries of the State by "a line from the northeast corner of the State of Pennsylvania, along the north bounds thereof, to its northwest corner, continued due west, until it shall be intersected by a meridian line, to be drawn from the 45th degree of north latitude, through a point twenty miles due west from the most westerly bent, or inclination of the river, or strait of Niagara; thence by

the said meridian line, to the 45th degree of north latitude, thence by the said 45th degree of north latitude." Congress accepted this cession in 1782.* On April 19, 1785, Massachusetts ceded her territory west of the line fixed by New York.† Connecticut retained possession of her lands until September, 1786, when she relinquished title to all that lying 120 miles west of the eastern boundary of Pennsylvania,‡ but reserving to herself the valuable tract known as the "Western Reserve" over which the United States did not receive jurisdiction until 1800.|| South Carolina did not cede her lands until August 9, 1787.§

At this time Virginia possessed extensive, rich and well-populated lands in the Northwest, out of which territory have since been carved the States of Michigan and Wisconsin

* *Journals of Congress*, October 29, 1782.

† *Ibid*, April 19, 1785.

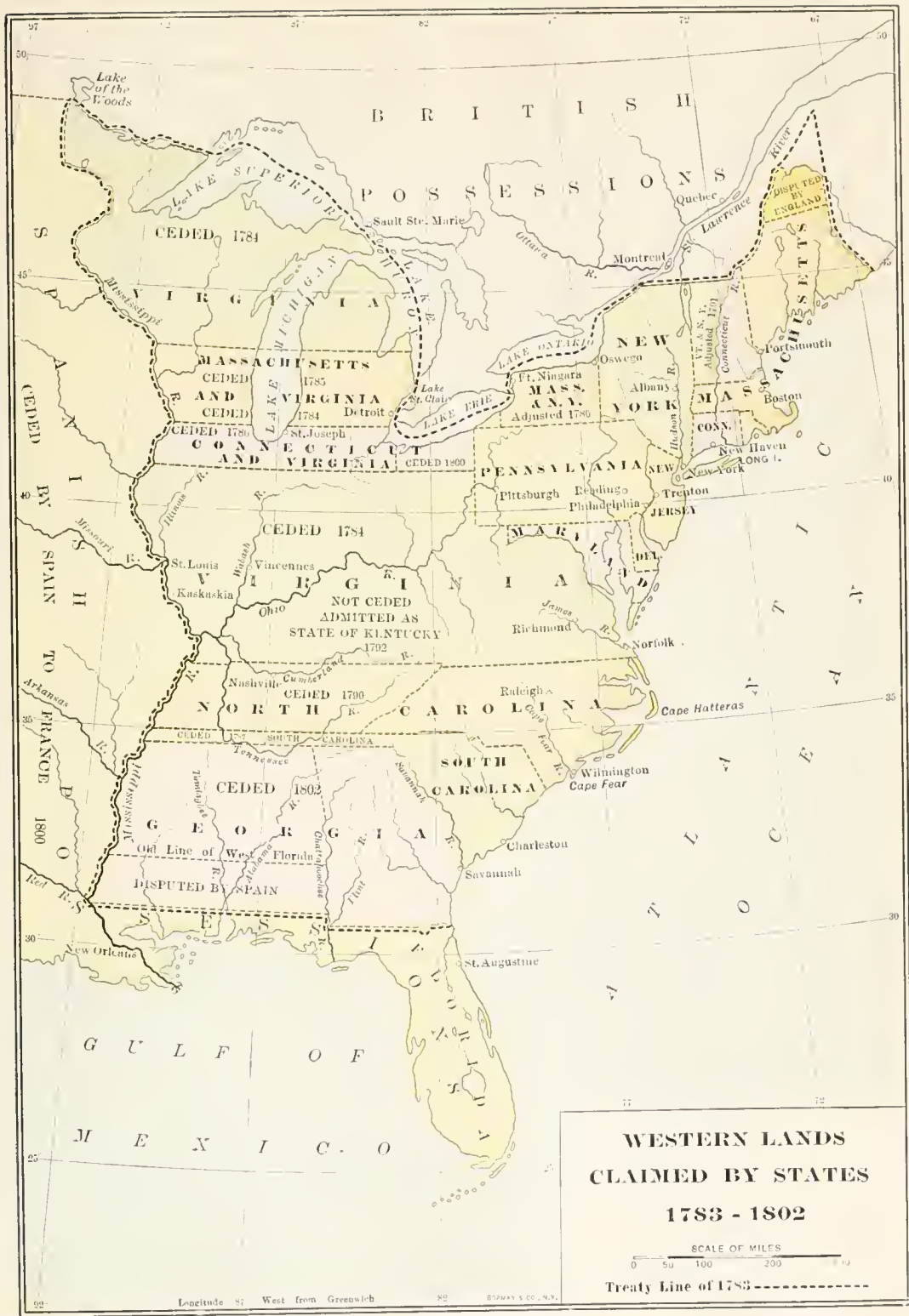
‡ *Ibid*, September 14, 1786, vol. xi., pp. 221-223.

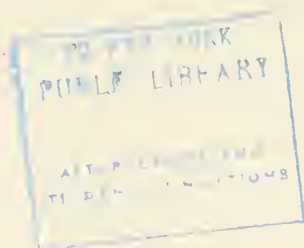
|| Marshall's Report, *American State Papers*, *Public Lands*, vol. i., pp. 94-98.

§ On the cessions, see Moore, *The Northwest under Three Flags*, pp. 315-326, and authorities cited, especially B. A. Hindsdale, *The Old Northwest*; Roosevelt, *Winning of the West*, vol. iii., pp. 246-251; Winsor's *Narrative and Critical History*, vol. vii., app. i.; Johnston, *Connecticut*, pp. 280-283; King, *Ohio*, p. 163 *et seq.*; F. J. Turner, *Western State-Making in the Revolutionary Era*, in *American Historical Review*, vol. i., pp. 251-258; Shosuke Sato, *The Land Question in the United States*, in *J. H. U. Studies*, series iv., nos. vii.-ix.; Henry Gannett, *Boundaries of the United States and of the Several States and Territories*; Joseph Blunt, *Historical Sketch of the Formation of the Confederacy*; Thomas Donaldson, *The Public Domain* (*House Misc. Doc.*, 47th Congress, 2d session, pt. 4, no. 45).

* *Secret Journals of Congress*, vol. i., p. 328; Herbert B. Adams, *Maryland's Influence upon Land Cessions to the United States*, in *Johns Hopkins University Studies in Historical and Political Science*, series iii., no. i., p. 22; and the same paper under a slightly different title in *Maryland Historical Society Publications*, no. x.; Fiske, *Critical Period*, pp. 191-193; Ogg, *Opening of the Mississippi*, p. 403.

† See the *Journals of Congress* for September 6, October 10 and 12, 1780; February 12, March 1, 1781; September 12, 1783. See also Curtis, *Constitutional History*, vol. i., pp. 90-97.





and much of Ohio, Indiana, and Illinois. Pursuant to the recommendation of Congress, a bill was introduced in the Virginia House of Deputies in the autumn of 1783 for the cession of this territory to the national body,* and in March, 1784, the bill passed with only slight opposition.† Fiske says:

"When we come to trace out the results of her [Maryland's] action, we shall see that just as it was Massachusetts that took the decisive step in bringing on the Revolutionary War when she threw the tea into Boston Harbor, so it was Maryland that, by leading the way toward the creation of a national domain, laid the cornerstone of our Federal Union. Equal credit must be given to Virginia for her magnanimity in making the desired surrender. It was New York, indeed, that set the praiseworthy example; but New York, after all, surrendered only a shadowy claim, whereas Virginia gave up a magnificent and princely territory of which she was actually in possession. She might have held back and made endless trouble, just as, at the beginning of the Revolution, she might have refused to make common cause with Massachusetts; but in both instances her leading statesmen showed a far-sighted wisdom and breadth of patriotism for which no words of praise can be too strong."‡

With the exception of the Western Reserve, Congress now had title to all territory north of the Ohio, and

that body proceeded to enact legislation for its government. Nine years previously this territory had been practically unoccupied by settlers from the older States, but after the war plans for colonization were formed, and hope was expressed that the lands might be sold at a price sufficiently large to pay the debts of the Confederation.* Definite action was taken by Congress in March, 1784, when Virginia had completed her cession, and after much discussion a resolution was finally adopted in April following. It was originally proposed to divide the territory into seventeen States, but this was rejected, and a committee, of which Jefferson was the chairman, proposed a scheme by which ten States were to be formed.‡ There were to be three tiers of States, each of which was to be two degrees of latitude in width, the meridians through the falls of the Ohio and through the mouth of the great Kanawha forming the boundaries of the middle tier, the western tier stretching westward from the first meridian to the Mississippi, and the eastern tier laying eastward from the second meridian to the western line of Pennsylvania.

* Jefferson's draft of this bill will be found in Ford's ed. of *Jefferson's Writings*, vol. iii., pp. 406-407.

† Bancroft, *History of the United States*, vol. vi., pp. 111-117; Jefferson's letter to Washington, in Sparks, *Correspondence of the Revolution*, vol. iv., p. 62; McMaster, *United States*, vol. i., pp. 149-150, vol. ii., p. 477; Cooley, *Michigan*, pp. 123-124; Henry, *Life of Patrick Henry*, vol. ii., pp. 75-109, 219-220; Hunt, *Life of Madison*, p. 44 et seq.; Curtis, *Constitutional History*, vol. i., pp. 198-199. The act and deed of cession are in Poore, *Federal and State Constitutions*, vol. i., pp. 427-428; Thorpe, *Federal and State Constitutions*, vol. ii., pp. 955-957.

‡ Fiske, *Critical Period of American History*, p. 195.

* J. A. Barrett, *Evolution of the Ordinance of 1787, with an Account of the Earlier Plans for the Government of the Northwest Territory*, in *University of Nebraska Seminary Papers*, no. i., pp. 4-5 (1891).

† For the first draft of the report, see Randall, *Life of Jefferson*, vol. i., pp. 397-399.

‡ This report will be found in Ford's ed. of *Jefferson's Writings*, vol. iii., pp. 407-410, and the report of March 22 on pp. 429-432.

The names proposed for the States were curious, being derived from Latin and Greek, and Latinized forms of the Indian names of the rivers in the territory. Sylvania was the name given to the tract stretching from the 45th parallel of latitude to the Lake of the Woods, this constituting the western State of the western tier, and covering what is now the northern half of Wisconsin and the north-western part of Minnesota. Under Sylvania, stretching from Lake Michigan to the Mississippi in what is now the heart of Wisconsin, was to be Michigania. South of this to the 41st parallel was Assenisipia, below which, between the 39th and 41st parallels, was Illinoia. The present State of Michigan, between lakes Michigan and Huron, was to be called Cherronesus, south of which and east of Assenisipia, stretching to the shores of Lake Erie, was to be Metropotamia. South of Metropotamia and eastward from Illinoia was to be Saratoga. Under the latter two was to be Polypotamia, and east of this Pelisipia. The tenth State was Washington, bounded on the west by Metropotamia and Saratoga, on the south by the Ohio, on the east by Pennsylvania and on the north by Lake Erie.* A code of laws was drawn to serve as a constitution for each State, which would be allowed

self-government when the inhabitants numbered 20,000. These governments were to be established on the following principles—that they should forever remain a part of the Confederacy of the United States; that they should be subject to the Articles of Confederation and the acts and ordinances of Congress just the same as the original States; that they should not interfere in the disposal of the soil by Congress; that they should pay their shares of the public debt, present and prospective, as proportioned by Congress; that the governments should be republican; that lands owned by non-residents should not be taxed higher than those owned by residents in any new State before its delegates had been admitted to vote in Congress. Until the new States should have population sufficient to admit them into the Union, they might send a representative to Congress who should have the privilege of speaking and debating, but not of voting.*

One of the proposed provisions of this code abolished slavery after 1800, and another stated that no person holding a hereditary title might become a citizen of the new States, but both these provisions were stricken out by Congress.† Slightly

* McMaster, *United States*, vol. i., pp. 165-166; Dunn, *Indiana*, pp. 180-181; King, *Ohio*, p. 178. See also Morse, *Thomas Jefferson*, pp. 75-76; Fiske, *Critical Period*, pp. 196-198.

* Curtis, *Constitutional History*, vol. i., pp. 200-201. The text of the ordinance of 1784 is in *Old South Leaflets*, no. cxxvii. A map of the proposed division of States will be found in Winsor, *Narrative and Critical History*, vol. vii., p. 529.

† Dunn, *Indiana*, p. 184 *et seq.*; King, *Ohio*, p. 179; Holmes, *Annals*, vol. ii., pp. 354-356.

amended as to boundaries and names of States, the Ordinance was passed by Congress, April 23, 1784, but it never went into effect.*

Some of the Northern men, however, were not satisfied that the slavery proviso had been dropped, and Pickering called the attention of Rufus King to this fact, saying: "To suffer the continuance of slaves till they can gradually be emancipated, in States already overrun with them, may be pardonable, because unavoidable without hazarding greater evils; but to introduce them into countries where none now exist—countries which have been talked of, which we have boasted of, as asylums to the oppressed of the earth—can never be forgiven."† Accordingly, on March 16, 1785, King moved that the following proposition be committed: "That there shall be neither slavery nor involuntary servitude in any of the States described by the resolve of Congress of the 23d of April, 1784, otherwise than in the punishment of crimes, whereof the party shall be personally guilty; and that this regulation shall be an article of compact, and remain a fundamental principle of the constitutions between the thirteen original States, and each of the States described in the said resolve, of the 23d of April, 1784." The motion to commit pre-

vailed by a vote of eight States against four, but the resolutions were docketed by the secretary and were never enacted into law.*

There had been a number of discussions in Congress regarding the disposition of the western lands, and various measures had been suggested which were ultimately incorporated into the Ordinance of 1787, but no action was taken that indicated an agreement on the whole Ordinance until the spring of 1787. On April 23 of that year a committee of Congress, consisting of Nathan Dane, of Massachusetts; C. C. Pinckney, of South Carolina; Smith, of New York; Johnson, of Connecticut, and Henry, of Maryland, reported an "Ordinance for the Government of the Western Territory," which was read for a second time and amended on May 9.† Though the Massachusetts representatives called for a third reading on May 10, action was postponed and this Ordinance did not come up again, except to be referred to a new committee on July 9. About one third of it, however, with some modifications, is included in the Ordinance of 1787 as finally adopted.‡

The sudden halt in the consideration of this measure is attributed to

* *Journals of Congress*, vol. ix., p. 153; McLaughlin, *The Confederation and the Constitution*, p. 117.

† Pickering, *Life of Pickering*, vol. i., p. 510.

* Dunn, *Indiana*, p. 192 *et seq.*; King, *Ohio*, p. 179; Cooley, *Michigan*, pp. 126-127; Barrett, *Evolution of the Ordinance of 1787*, p. 28.

† Dunn, *Indiana*, p. 195. This draft of the Ordinance is given by W. F. Poole, in *North American Review*, vol. cxxii., pp. 242-244.

‡ For some of its provisions, see Dunn, *Indiana*, pp. 195-196.

the Ohio Company, which had been formed for the purpose of colonization in the western lands. Upon the close of the Revolutionary War in 1783, the soldiers and officers found themselves confronted with grim penury and began to look about for some peaceful occupation.* Even before the treaty of peace was signed, it was rumored that a movement was on foot to form a new state in the West. Writing to Hodgdon, Timothy Pickering says: "A new plan is in contemplation — no less than forming a new State west of the Ohio. Some of the principal officers of the army are heartily engaged in it. About a week since the matter was set on foot and a plan is digesting for the purpose. Enclosed is a rough draft of some propositions respecting it, which are generally approved of. They are in the hands of General Huntington and General [Rufus] Putnam for consideration, amendment and addition." Pickering's propositions related to the establishment of a sort of brotherhood community of soldiers.†

In June, 1783, Putnam sent a memorial to Washington, who forwarded it to Congress, and similar memorials were sent directly to that body, but it was urged that the title

to western lands was too unsettled for any definite action, and in October 29 of that year Congress formally gave notice that for the time being it could make no provision for the soldiers.* In 1785 Putnam was elected surveyor for Massachusetts, under the land ordinance, but, as he was unable to serve, General Benjamin Tupper was temporarily appointed to the position.† In the summer of that year Tupper set out for the West, but upon reaching Pittsburg learned that the Indians were on the warpath and proceeded no farther. The Shawanese were the principal objectors to the advance of the whites. By the treaty of Fort Stanwix, October 22, 1784, the Iroquois surrendered all claims to lands northwest of the Ohio, but the western tribes disputed that the Iroquois had title there. By the treaty of Fort McIntosh, January 21, 1785, a part of the Chippewas, Wyandots, Ottawas and Delawares ceded more than half of Ohio, and in the latter part of 1785, General Samuel Holden Parsons joined George Rogers Clark and Colonel Richard Butler in an endeavor to bring the Shawanese to terms. Though the Indians were reluctant to surrender their old towns, the commissioners pointed out to them that they held their territory only by the sufferance of the tribes which had already ceded, and

* Roosevelt, *Winning of the West*, vol. iii., p. 254.

† Dunn, *Indiana*, pp. 196-197. The propositions are given in full in Pickering, *Life of Pickering*, vol. i., pp. 546-549. See also Rowena Buell, *Memoirs of Rufus Putnam*, p. 215; W. P. & J. P. Cutler, *Life, Journals and Correspondence of Rev. Manasseh Cutler*, vol. i., pp. 159-174.

* Dunn, p. 197.

† *Journals of Congress*, vol. iv., pp. 527-547.

that unless they relinquished the territory, war would be declared against them. On January 31, 1786, therefore, they signed a treaty at Fort Finney, at the mouth of the Great Miami, surrendering their territory, and with the consent of the Wyandots and Delawares, were given a tract of land running from the northern part of the Great Miami to the Wabash.*

Meanwhile, so favorably impressed was Tupper with his view of the West, that upon his return to Massachusetts he determined to organize a band of emigrants in the New England States, for colonizing in the West; and in January, 1786, he and Putnam formed an association for that purpose called the Ohio Company. A meeting of Massachusetts men was held at Boston in March, and a plan devised for raising a fund of \$1,000,000, in continental certificates, the funds to be applied to the purchase and settlement of lands in the western territory. This fund was to be divided into 1,000 shares of \$1,000 each; every lot of 20 shares was to constitute a division which was to choose an agent, and the latter were to elect directors and a treasurer. Considering the prevailing financial conditions, subscriptions came in rapidly, and on March 8, 1787, a meeting of agents was held, at which Putnam, Parsons, and Manasseh Cutler were made directors. These men were

chosen to go before Congress for the purpose of obtaining the right to purchase the lands.*

By the time Cutler reached New York, the memorial of the Ohio Company had already been drawn up by Parsons and presented to Congress (May 9). It was a most opportune time, as the Ordinance for the Government of the Territory Northwest of the Ohio was then under consideration by Congress. The memorial drawn up by Parsons asked that "a Tract of Country within the Western Territory of the United States at some convenient Place may be granted them at a reasonable Price, upon their paying a Sum not exceeding One Million of Dollars, nor less than Five Hundred Thousand Dollars, and that Such of the Associators as by the Resolutions of Congress are entitled to receive their Lands for their military Services, may have their Lands assigned them within the aforesaid Grant."† While this memorial contained no objection to the Ordinance then before Congress, it is reasonable to suppose that it exerted a great influence in stopping action on it, and resulted in the introduction of a new draft. Because of the financial needs of the country, the plan greatly appealed to Congress, as by this one transaction there was a

* Dunn, *Indiana*, p. 198; King, *Ohio*, pp. 174-175.

* McMaster, *United States*, vol. i., pp. 504-507; Dunn, *Indiana*, p. 199; King, *Ohio*, p. 195. For the Articles of Agreement, see Cutler, *Cutler*, vol. i., pp. 181-184.

† Dunn, *Indiana*, pp. 199-200.

prospect of materially reducing the public debt.*

But a quorum was lacking in Congress, and none could be obtained from May 12 until July 4, and Parsons therefore decided to return home, turning over the actual negotiation to his co-director, Manasseh Cutler. Cutler arrived at New York on July 5, and on the following day, as a quorum was present in Congress, made a new proposal for the purchase, which the same day went to the old committee on Parsons' memorial. On the 9th the report on the Ordinance was sent to a new committee consisting of Dane, Smith, of New York; Carrington and Richard Henry Lee, of Virginia, and Kean, of South Carolina, and it was determined to push this to a conclusion before considering the matter of the sale. The committee reported on the 11th, and having been made a special order of business the report was read and amended on the 12th. On the 13th it was advanced to the third reading and passed, Abraham Yates, Jr., whom Roosevelt calls a "nobody from New York," registering the only vote against it.†

Cutler now experienced much difficulty in obtaining the terms he desired, which were chiefly "three shillings, six pence, Continental money,

or one-twelfth of a dollar coin, per acre, for the tract, with sections 8, 11, and 26 of each township to be reserved by Congress for future sale, section 16 to be donated for school land, section 29 to be donated for religious purposes, and two entire townships to be donated for a university."* On July 19 Congress came to the conclusion that the lowest price acceptable per acre for the land was a dollar in specie, or Continental money on a specie basis, but a discount of 33 1-3 per cent. was allowed for bad lands, expenses, etc. No allowance was made, however, for a university or for religious purposes. Cutler refused these terms, but at the instigation of Colonel William Duer, and the urging of Winthrop Sargent, secretly consented to take in another company, and to buy lands as its agent, though apparently for his own company. Thenceforth Duer and Sargent took an active interest. Impetus was added when it became known that Arthur St. Clair, then President of Congress, desired to become governor of the new territory. Cutler consented to this arrangement, being satisfied if Parsons became first judge and Sargent secretary of the territory.‡ The negotiations were now rapidly pushed, all the friends of the sale contributing their share, and

* *Ibid.*, p. 201.

† *Ibid.*, pp. 203-204, 215. On the debate, see Bancroft, vol. vi., pp. 227-291; McMaster, vol. i., pp. 507-508; Roosevelt, *Winning of the West*, vol. iii., pp. 256-257.

* Dunn, p. 216.

† King, *Ohio*, pp. 196-197.

‡ As to whether this had any effect on St. Clair, see the conflicting statements in *North American Review*, vol. cxxii., p. 229, and *Magazine of Western History*, vol. i., p. 49.

on the 27th of July the bill passed, making the reservations for university and religious purposes for which Cutler had stipulated.* The contract was formally signed October 27, 1787, by the treasury board, and by Cutler and Sargent as agents for the Ohio Company.† According to the entry in Cutler's *Journal*, the company obtained "the grant of near five million of acres of land, amounting to three million and a half of dollars; one million and a half of acres for the Ohio Company, and the remainder for a private speculation, in which many of the principal characters of America are concerned.‡ Without connecting this speculation, similar terms and advantages could not have been obtained for the Ohio company."|| Putnam was made superintendent and the company was given immediate possession. In the spring of 1788 two parties of settlers (including surveyors, boat-builders, smiths, carpenters, farmers and laborers, 48 in all) left for the West, one by water and the other by land, and on April 7 a little town was es-

tablished on the site of the present city of Marietta, which name was given it at the first meeting of the directors, July 2, in honor of Marie Antoinette.* "No colony in America was ever settled under such favorable auspices," said Washington. "Information, property and strength will be its characteristics."†

As the Ordinance of 1787 constituted the basis of the territorial governments provided by Congress, and as its principles lie at the foundation of the civil polity of a considerable portion of the country,‡ we will give its provisions somewhat at large.|| For the present the territory was to be one district, but could be divided into two, whenever Congress should

* Roosevelt, *Winning of the West*, vol. iii., p. 265; King, *Ohio*, pp. 197-198; McMaster, *United States*, vol. i., pp. 508-515.

† Ford's ed. of Washington's *Writings*, vol. xi., p. 282.

‡ Daniel Webster said: "I doubt whether one single law of any law-giver, ancient or modern, has produced effects of more distinct, marked and lasting character than the Ordinance of 1787."

|| Pitkin, vol. ii., pp. 210-213; McLaughlin, *The Confederation and the Constitution*, p. 120 *et seq.*; Curtis, *History of the Constitution*, vol. i., pp. 302-306 (*Constitutional History*, vol. i., p. 203 *et seq.*); Poore, *Federal and State Constitutions*, pt. i., pp. 429-432; *United States Statutes-at-Large* (ed. 1845), pp. 50-51; Story, *Exposition of the Constitution*, pp. 329-337; Preston, *Documents Relating to American History*, pp. 241-250; MacDonald, *Select Documents*, pp. 22-29; Hough, *American Constitutions*, vol. ii., pp. 144-148; Thorpe, *Federal and State Constitutions*, vol. ii., pp. 957-962; Andrews, *Manual of the Constitution*, app. xiii.; Donaldson, *Public Domain*, pp. 153-156; Duer, *Constitutional Independence*, pp. 512-520; Clusky, *Political Text-Book*, pp. 469-472; *St. Clair Papers*, vol. ii., p. 612; Albach, *Annals of the West*, p. 466. See also Appendix I. at the end of the present chapter.

* Dunn, *Indiana*, pp. 217-218.

† King, *Ohio*, p. 197.

‡ According to McMaster, this was probably the Scioto Company.

|| Extracts from Cutler's *Journal* were published in *North American Review*, vol. iii., p. 520, and in *Annals of the West*, p. 308 *et seq.* See also Cutler, *Life, Journals and Correspondence of Manasseh Cutler* (1888); John M. Merriam, *The Legislative History of the Ordinance of 1787*, in *Proceedings of the American Antiquarian Society*, n. s. vol. v., p. 303; William F. Poole, *Dr. Cutler and the Ordinance of 1787*, in *North American Review*, vol. cxxii., pp. 229-265.

deem wise. The Ordinance provided that until the free male inhabitants, of full age, in the district, should number five thousand, the legislative, executive, and judicial power should be vested in a governor and three judges, who, with a secretary, were to be appointed by Congress. The governor was to hold office three years, and the judges during good behavior. The governors and judges were given the power to adopt and publish such laws of the original States as might be necessary or suitable to the affairs of the district, and to report them to Congress, these laws to be enforced unless disapproved by that body. The governor had power to divide the territory into districts or townships, and to appoint all civil officers. As soon as the free male inhabitants should number five thousand, an assembly, consisting of the governor, a legislative council, and a house of representatives, was to be instituted. The representatives were to be chosen, for a period of two years, from the counties or townships, one for every five hundred free male inhabitants, until they should number twenty-five, after which time the legislature should regulate the number. These representatives must have been residents of the United States for three years, residents of the districts from which they were elected or have resided three years in the district. In either case they must possess in fee simple two hundred acres of land in the district. The

electors must reside in the district, be citizens of one of the States, and have a freehold of fifty acres of land in the district, or a like freehold and two years' residence.

The legislative council was to be composed of five persons, chosen for a term of five years, subject to removal by Congress. The method of choosing them was as follows: ten persons, who were the possessors of a freehold in five hundred acres of land, were to be nominated by the house of representatives, and out of this number Congress was to choose five who should constitute the council. All laws for the government of the district were to be made by the general assembly, but none were to be enacted contrary to the provisions of the Ordinance; and before these enactments could become law they must have had the sanction of a majority of both houses and the assent of the governor. The legislative assembly, by joint ballot, was to elect a delegate to Congress who should have the privilege of debating, but not of voting.

At the same time Congress established certain articles which were to be considered as articles of compact between the people in the new territory and the original States, and which could not be altered except by the common consent of all. Religious liberty was established and all were entitled to the benefits of the writ of habeas corpus, trial by jury, and other fundamental rights. Education was to be encouraged and good faith

observed toward the Indians; lands and property were not to be taken from them without their consent. Such States as might be formed from the territory (not less than three nor more than five) were forever to remain a part of the American Confederacy.* While the boundaries of these States were fixed, Congress reserved the right to alter them by forming one or two new States in that part of the territory lying north of a line drawn east and west through the southern bend or extreme of Lake Michigan. Whenever one of these States should contain 60,000 free inhabitants, such State was to be admitted to the Union on an equal footing with the old States in every respect. At that time such State was to adopt a constitution and form a government of a republican nature and in strict conformity with the Articles of Confederation. If, however, the Confederation should deem it wise at any time to admit a State with less than 60,000 free inhabitants, this could be done, if not inconsistent with the general interests of all the States. Slavery and involuntary servitude were prohibited except in the punishment of crime of which the party should have been duly convicted.† But it was provided that fugitive slaves owned in other States might be extradited and taken back

to the owners.* In speaking of this subject, Curtis makes the following remarks:

"American legislation has never achieved any thing more admirable, as an internal government, than this comprehensive scheme. Its provisions concerning the distribution of property, the principles of civil and religious liberty which it laid at the foundation of the communities since established under its sway, and the efficient and simple organization by which it created the first machinery of civil society, are worthy of all the praise that has ever attended it. It was not a plan devised in the closet, upon theoretical principles of abstract fitness. It was a constitution of government, drawn by men who understood, from experience, the practical working of the principles which they undertook to embody. Those principles were, it is true, to be applied to a state of society not then formed; but they were taken from states of society, in which they had been tried with success."‡

* Mr. President King, in February, 1855, printed in the *New York Daily Tribune*, a chapter from his *Life and Correspondence of Rufus King*. In this chapter the question is fully and lucidly discussed respecting the authorship of the celebrated Ordinance of 1787. For an extract from this paper, see Appendix II. at the end of the present chapter. See also Dane, *Abridgement of American Law* (ed. 1824), vol. vii., p. 389; (1830), vol. ix., app., pp. 74-76; F. D. Stone, *The Ordinance of 1787*, in *Pennsylvania Magazine of History and Biography* (1889); John M. Merriam, *The Legislative History of the Ordinance of 1787*, in *Proceedings of the American Antiquarian Society*; Dunn, *Indiana*, pp. 177-178, 204-215 and authorities cited; *Life, Journal and Correspondence of Rev. Mannasseh Cutler, LL.D.*, vol. ii., pp. 367-368; Edward Coles, *History of the Ordinance of 1787*; J. A. Barrett, *The Evolution of the Ordinance of 1787*, in *University of Nebraska Seminary Papers*; Hinsdale, *The Old Northwest*, chap. xv.; Israel W. Andrews, *The Northwest Territory*, in *Magazine of American History*, vol. xvi., pp. 133-147. Many claim that "the authorship of the Ordinance of 1787, and its passage through the old Congress, are the indisputable work, both in its conception and consummation, of the South." For this view see Benton, *Thirty Years' View*, vol. i., pp. 133-136.

‡ Curtis, *Constitutional History*, vol. i., p. 206.

* Cooley, *Michigan*, pp. 128-129.

† On the importance of this slavery proviso see Dunn, *Indiana*, pp. 219-260.

It was not until October 5, 1787, that Congress elected Arthur St. Clair governor of the territory, with the capital at Marietta, now in the State of Ohio. The territory then began to grow and received large acquisitions of settlers from the Eastern States.*

While the territory north of the Ohio was thus making rapid progress, the country south of this river was in the throes of civil strife. In chapter v., of the *Revolutionary Era*, we have seen that the Watauga Association had been formed, but for purposes of lucidity we shall give a short review of the circumstances. In 1770 James Robertson, with a party of pioneers, entered Boone's country and made a settlement on the Watauga, a head-water of the Tennessee river. In 1772 he was joined by John Sevier, and as the settlement was isolated from the rest of the world, the settlers proceeded to form a government of their own.† This association, called the Watauga Association continued to exist until 1776 when it was incorporated in the government of North Carolina as the District of Washington.‡ Settlers continued to pour into the region, and before the

end of the Revolution numerous permanent settlements had been made beyond the mountains, all possessing a certain amount of self-government.

North Carolina owned a large tract of land, comprising nearly 29,000,000 acres, lying beyond the western foothills of the Blue Ridge Mountains, and stretching past the Tennessee to the Mississippi. It had been settled about 1758, and in 1784 nearly 10,000 persons were living in the region lying between the Holston, the Cumberland and the hills.* In June, 1784, the North Carolina Legislature passed a bill ceding this land—that is, all of what is now Tennessee—to the government, allowing two years for the acceptance of the grant, during which time the authority of North Carolina was to be supreme.† Shortly afterward (August 23), delegates from Washington, Greene, and Sullivan counties met at Jonesboro, for the purpose of discussing the affairs of their section; and it was resolved that the three counties

* Albach, *Western Annals*, p. 507. For a history of the progress of the Holston and Cumberland settlements, see Roosevelt, *Winning of the West*, vol. ii., chaps. x.-xii. North Carolina considered these settlers "off-scourings of the earth" and "fugitives from justice." See George H. Alden, *The State of Franklin*, in *American Historical Review*, vol. viii., p. 277. For a description of the early Indian warfare, see J. R. Gilmore, *Advance-Guard of Western Civilization*, chaps. i.-iv.

† See Hawkins' letter in Sparks, *Correspondence of the Revolution*, vol. iv., pp. 69-71; Phelan, *History of Tennessee*, p. 69; McMaster, *United States*, vol. i., pp. 155-156; Walker Kennedy, in *The South in the Building of the Nation*, vol. ii., p. 474.

* For details, see Moore, *The Northwest under Three Flags*, pp. 327-344, and authorities cited; Dunr, *Indiana*, p. 263 et seq.

† J. G. Ramsey, *Annals of Tennessee to the End of the Eighteenth Century*, chap. ii.; John Haywood, *Civil and Political History of Tennessee* (ed. of 1823), p. 41.

‡ See Roosevelt, *Winning of the West*, vol. i., chap. vii.

should be formed into a State, that the laws should follow those of North Carolina, and that a petition should be sent to Congress, advising the acceptance of the cession, and asking admission for the new State.* An address to the people was then issued, asking their support and coöperation. It was now decided to hold elections for five delegates from each county, who should meet at Jonesboro, September 16, for the purpose of framing a constitution and naming the new State, but it was not until late in November that the fifteen delegates met, and then only to separate in anger.† The North Carolina Legislature thereupon repealed the bill of cession, and established a supreme court at Jonesboro, granting also certain rights for which the western settlers had long been contending.

At this time John Sevier had become a leader among the inhabitants

* Ramsey, *Annals of Tennessee*, pp. 287-288; Roosevelt, *Winning of the West*, vol. iii., pp. 155-157; Phelan, *History of Tennessee*, p. 71 et seq.; Fiske, *Critical Period*, pp. 199-201. "If we should be so happy," they said, "as to have a separate government, vast numbers from different quarters, with a little encouragement from the public, would fill up our frontier, which would strengthen us, improve agriculture, perfect manufactures, encourage literature and every thing truly laudable. The seat of government being among ourselves, would evidently tend, not only to keep a circulating medium in gold and silver among us, but draw it from many individuals living in other states, who claim large quantities of lands that would lie in the bounds of the new state."—Ramsey, pp. 288-289.

† McMaster, *United States*, vol. i., p. 160; Roosevelt, *Winning of the West*, vol. iii., pp. 158-159.

of the section, and had been one of the first to advocate the formation of a new State, but when North Carolina redressed the grievances of the western settlers, he advocated that they remain firm and faithful to the laws of North Carolina. The members, however, rejected his advice, opened the convention and elected Sevier president.* On May 23, 1785, Congress asked North Carolina to reconsider her act of the previous November and once more to cede the lands, but the State refused, being too intent on bringing her rebellious citizens to terms.† When the westerners heard of the resolution of Congress, they expressed much surprise, for they said that inasmuch as North Carolina had given them away and the gift had been refused, they were now absolutely independent. Early in 1785, therefore, they had called a convention, had given the State the name of Franklin, had framed a constitution, which was submitted to the people for approval, and had elected a legislature which was actually in session before Congress passed the resolution asking North Carolina again to cede the lands. This legislature had met at

* Phelan, *History of Tennessee*, chap. x.; Roosevelt, p. 159.

† Governor Alexander Martin issued a manifesto to the inhabitants of Franklin at the end of which he said: "North Carolina's resources are not yet so exhausted or her spirits damped, but she may take satisfaction for this great injury received, regain her government over the revolted territory, or render it not worth possessing."—Phelan, *History of Tennessee*, p. 81.

Jonesboro, enacted many laws, and had adjourned on March 31. It had also been decided that, as much time must necessarily elapse before the constitution could become known to all, a third convention should not be held to ratify the constitution until November 14, at which time the delegates were to assemble at Greeneville.*

Two governments now existed in the territory, each with its courts, justices, sheriffs, state officials and militia, and each enacting laws and levying taxes. Sevier's followers endeavored to hold court at Jonesboro, but the rival officials broke up the court and seized its papers. Sevier retaliated by committing the same act upon a judge sitting under the authority of North Carolina, and thus the battle was waged back and forth for some time.† But an outbreak of war with the Cherokees, Chippewas, Twightwees, Tawas, Shawanese and Pottawattamies put an end to local animosities for the time being, and all energies were expended in protecting the frontier. Sevier organized a band of 160 horsemen, and, crossing over the Unaka Mountains to the Hiwassee, attacked and burned three Indian villages, killing fifteen Indians. However, as there were supposed to be

about 1,000 braves on the warpath, it was decided expedient to return to the settlement.*

Efforts were now made to settle the dispute between the two commonwealths, the offer of compromise coming first from Franklin and then from North Carolina. It was finally agreed that public business was to be carried on by the authorities of the two States acting in conjunction, until the differences could be properly and amicably adjusted. Sevier served throughout his term of office which expired in March, 1788, and as no successor was elected the State of Franklin, after three years of fitful life, passed out of existence.‡ In 1790 the government accepted from North Carolina (the act being approved April 2, 1790) the cession of Tennessee,§ and the latter became part of the Territory of the United States South of the River Ohio, remaining in this status until admitted to the Union in 1796.||

* Roosevelt, *Winning of the West*, vol. iii., pp. 177 *et seq.*, 189; McMaster, *United States*, vol. i., pp. 384-385. On the various Indian campaigns, see Gilmore, *Advance-Guard of Western Civilization*, chap. vi.

† Phelan, *History of Tennessee*, pp. 93-100. For other details see F. J. Turner, *Western State-Making in the Revolutionary Era*, in *American Historical Review*, vol. i., pp. 258-261; George H. Alden, *The State of Franklin*, in *American Historical Review*, vol. viii., pp. 271-289; J. R. Gilmore, *John Sevier as a Commonwealth Builder*; Roosevelt, *Winning of the West*, vol. iii., pp. 180-183.

‡ The act of cession will be found in Thorpe, *Federal and State Constitutions*, vol. vi., pp. 3409-3413.

|| See Walker Kennedy, in *The South in the*

* McMaster, *United States*, vol. i., pp. 262-265; Roosevelt, *Winning of the West*, vol. iii., p. 166 *et seq.*

† Phelan, *History of Tennessee*, pp. 87-88; Roosevelt, p. 170; Ramsey, *Annals of Tennessee*, pp. 339-340; Haywood, *History of Tennessee*.

The Kentuckians were also becoming restless, especially as the Indians were committing depredations on the southern borders,* and the community had no means of organized defence. Benjamin Logan, a colonel in the militia, therefore called a meeting of citizens at Danville to deliberate upon a plan for defence. The opinion prevailed at this meeting that the citizens could not legally carry on a campaign against the Indians, nor even call out the militia, no matter how great the danger. There was no authority even to provide ammunition for the use of the militia.† It was therefore decided that delegates should be chosen to meet at Danville, December 24, 1784, for the purpose of drafting an appeal to Virginia for permission to form a new State.‡ This convention resolved "that many inconveniences under which they labored might be remedied by the legislature of Virginia, but that the great and substantial evils to which they were subjected were beyond the power and control of the government, *namely*, from their remote and detached situation, and would never be remedied until the district had a government of its

own." It was then decided to hold another convention, May 3, 1785,* and on that date the second convention met at Danville, then resolving "First—That a petition be presented to the Legislative Assembly, praying that this district be established into a state separate from Virginia; second—That another convention of representatives be elected to meet at Danville on the second Monday in August, to take further under consideration the state of the district; third—That this convention recommend that an election of deputies for the proposed assembly be on the principles of equal representation on the basis of population." †

A third convention was held on August 14, 1785, and a petition sent to the Virginia Assembly,‡ which brought forth some results in June, 1786, when an act was passed authorizing the separation. But annexed to the proposition were certain conditions relating to boundary, the proportion of the public debt to be assumed by Kentucky, the navigation of the Ohio, etc., which the Kentuckians would not accept. It was furthermore provided that a fourth convention should be held at which the will of the people should be freely expressed, either for or against sepa-

Building of the Nation, vol. ii., pp. 475-479; Phelan, *History of Tennessee*, p. 146 *et seq.*

* For details, see Roosevelt, *Winning of the West*, vol. iii., p. 206 *et seq.*

† Gilmore, *Advance-Guard of Western Civilization*, pp. 126-127; Roosevelt, vol. iii., pp. 217-218.

‡ Marshall, *History of Kentucky*, p. 190; *The South in the Building of the Nation*, vol. i., pp. 254-255.

* *Ibid.*, vol. i., pp. 255-256.

† *Ibid.*, vol. i., p. 256. See also Roosevelt, *Winning of the West*, vol. iii., pp. 219-220.

‡ Madison's *Works* (Congress ed.), vol. i., pp. 207-208.

ration, and that the Federal Congress should in advance consent to admit the new State into the Union.* This act, however, was repealed because of a memorial addressed to the Virginia Assembly by some of the members of the fourth convention and it was not until several years later and until after five other conventions had met that the work of separation was consummated.†

In 1786 the Indian war broke out with increased fury, and an expedition of 1,000 men under George Rogers Clark was sent against the Indians. The expedition was poorly managed, however, and ended in failure. Starting from the falls of the Ohio, the troops marched by land to Vincennes, where for several days they awaited the arrival of the rations and powder which had been sent by water. But half the provisions had been destroyed on the voyage, and the troops were forced to live on short rations, which caused much discontent among them.‡ To add to their discontent, Clark foolishly threw away all chance

of surprising the Indians by sending ahead runners to offer the Indians peace or war. This was the last straw, and 300 of the troops refused to proceed farther, saddled their horses, and, ignoring the entreaties of Clark, started homeward. Thus weakened, the others were left in dire straits; and, fearing surprise by the Indians, they resolved to follow the footsteps of their friends. The promising expedition was therefore turned into a disgraceful retreat, and the troops took the nearest and quickest routes to their homes.*

There was something to offset this calamity, however. Colonel Benjamin Logan, with a body of 500 mounted riflemen, had crossed the Ohio where Maysville now stands, penetrated the Indian territory to the head of the Mad River, burned several towns, devastated many hundreds of cornfields, killed 20 horses, and with 80 prisoners returned to Kentucky, sustaining a loss of only 10 men.†

Shortly after the sale of the Ohio Company, Congress offered to sell to the Miami Company, the chief personage in which was John Cleves Symmes, of New Jersey, a tract of 2,000,000 acres, situate between the Little and the Great Miamis. On

* Shaler, *Kentucky*, p. 97; *The South in the Building of the Nation*, vol. i., pp. 256-257; Roosevelt, p. 221 *et seq.*

† For details, see Shaler, *Kentucky*, p. 97 *et seq.* On the early history of Kentucky, see also W. B. Allen, *History of Kentucky* (1872); John Bradford, *Notes on Kentucky*, in *Kentucky Gazette* (Lexington, 1826-29); Mann Butler, *History of the Commonwealth of Kentucky* (1834); Lewis Collins, *Historical Sketches of Kentucky* (1847); Humphrey Marshall, *History of Kentucky* (1812); John A. McClurg, *Sketches of Western Adventure* (1832); J. F. Smith, *History of Kentucky* (1886); the publications of the Filson Club (1884 to date).

‡ Dunn, *Indiana*, pp. 163-164.

* Roosevelt, *Winning of the West*, vol. iii., pp. 77-84; Marshall, *History of Kentucky*, vol. i., pp. 248-249; Dillon, *History of Indiana*, pp. 201-202; Dunn, *Indiana*, p. 164; Albach, *Western Annals*; Butler, *History of Kentucky*, p. 153.

† Dunn, *Indiana*, p. 164; McMaster, *United States*, vol. i., p. 388.

May 15, 1788, the contract was signed and Symmes immediately offered his land for sale.* Matthias Denman purchased a large tract, opposite the mouth of the Licking, on which now stands the city of Cincinnati, but soon resold one third to Robert Patterson, and one third to John Filson, retaining the other third himself. The three then set out for the West and prepared to lay out a town directly opposite the spot where the Licking and Ohio rivers meet. It was agreed that they should lay out a town and establish a ferry there, and that "every institution, determination and regulation concerning it should be the result of the united advice and concert of the parties."† Filson called the new town Losantiville, but did not live long enough to see it grow, as a few weeks later he was found to be missing and was probably scalped by the Indians, though his actual fate still remains a mystery. Patterson did not arrive at the settlement until the last of December, and then the streets were marked out and the first huts erected.‡ Israel Ludlow, chief surveyor of the Miami Associates, by arrangement with Symmes, Denman and Patterson, acquired Filson's interest and became the surveyor and the principal agent in the town affair. Denman returned to New Jersey, but Patterson and Ludlow, with a party

of 12 surveyors and assistants, returned to Losantiville, starting December 24, 1788. From the time of their arrival at their destination is supposed to date the founding of Cincinnati.* The exact date of the settlement, however, has baffled research and it has been noted as a curious fact that "the date of the settlement of Cincinnati is unknown, though we have the testimony of the very man who made it."† "Ludlow laid out a village with the present Central Avenue and Broadway, about three quarters of a mile apart, for east and west boundaries, and Seventh Street, about as far from the river for northern, blazing the street lines on the trees. Three or four log cabins were built and the flooding out of several Ohio River town sites about this time left Cincinnati the sole survivor."‡ The name of the city was not changed from Losantiville to Cincinnati until January, 1790, when St. Clair established Hamilton County.

Emigration to the West now became the rage and the Ohio Company were remarkably successful in inducing the New Englanders to migrate; so much so, in fact, that bitter complaints were made by the East, and

* King, *Ohio*, pp. 211-212. See also Ford, *History of Cincinnati and Hamilton County* (1880); Miller, *Cincinnati's Beginnings* (1880).

† Perkins, *Annals of the West*.

‡ Judson Harmon, *Cincinnati*, in *Encyclopædia Americana*, vol. iv. See also King, *Ohio*, pp. 212-213.

* King, *Ohio*, pp. 203-206.

† *Ibid.*, p. 209.

‡ McMaster, *United States*, vol. i., pp. 515-517.

the scheme was denounced as an attempt to drain the latter section of its best blood.

But a still more serious loss threatened the whole country. The settlers in the western portion of North Carolina, now Tennessee, and the settlers in western Virginia, now Kentucky, had become discontented because of the treatment accorded them by the State and National governments, and it was feared that they would quit the Confederation, form a new republic and ally themselves with Spain.* Some of the settlers believed that, by a show of force, they could compel Spain to grant the free use of the Mississippi, while at the same time they could still continue under the authority of Congress.† General James Wilkinson, one of the most despicable characters in all our history, was one of these, and the weight of his influence added popularity to the scheme. He determined to open the navigation of the Mississippi, and, to test the Spanish temper, dispatched a cargo down the river which was seized at New Orleans. Miro, the governor of Louisiana, was informed that the owner of the cargo, Wilkinson, was very popular; that he had great influence over the Kentuckians; and that, if his property were confiscated, he would arouse the whole country and descend upon

Louisiana with several thousand of the best shots in the valley.*

Wilkinson then went to New Orleans, and by veiled threats confirmed the fears of Miro, who thereupon determined to bait Wilkinson with offers of free trade with New Orleans, in return for which Wilkinson was to use his influence to bring the Kentuckians to the side of Spain. The two struck a bargain and Wilkinson returned home.† Upon his arrival there he found John Connolly, the agent of Lord Dorchester (formerly Sir Guy Carleton), who had come to enlist the aid of the settlers on the side of Great Britain in a war with Spain, for the purpose of securing possession of Louisiana.‡ Wilkinson soon assured his guest, however, that the Americans hated the British and could never be brought to aid them in any undertaking, and Connolly thereupon de-

* Ogg, *Opening of the Mississippi*, pp. 441-442; McMaster, *United States*, vol. i., pp. 520-521; Phelps, *Louisiana*, pp. 156-157; Gilmore, *Advance-Guard of Western Civilization*, pp. 145-152.

† Gilmore, *Advance-Guard of Western Civilization*, pp. 153-159; Roosevelt, *Winning of the West*, vol. iii., p. 125; Phelps, *Louisiana*, p. 158; Ogg, *Opening of the Mississippi*, p. 442.

‡ See the letter of Arthur St. Clair to John Jay December 13, 1788, in W. H. Smith, *St. Clair Papers*, vol. ii., p. 101. See also Roosevelt, *Winning of the West*, vol. iii., p. 129. It must not be forgotten that Louisiana at that time comprised the whole valley of the Mississippi from New Orleans to the present northern boundary of the United States, stretching as far west as Wyoming and Montana.

* Gilmore, *Advance-Guard of Western Civilization*, pp. 135-136.

† Phelps, *Louisiana*, p. 156.

parted for Detroit, completely frustrated in his design.* Wilkinson was now a popular idol, because of his success in opening the river and making a market for large quantities of tobacco and other produce which could not otherwise have been sold.† He now organized an expedition of 25 flat-boats laden with flour, bacon, tobacco, butter, hams and ammunition, and early in January set forth with an escort of 150 fighting men. Others followed his example, and dozens of flat boats filled with produce were sent to New Orleans, depleting the stock in Kentucky to such an extent that by spring the cost of

food in some localities had risen 60 per cent.*

But the question of the navigation of the Mississippi was by no means settled, for while Wilkinson's cargoes were treated considerately, those of the other traders met the same fate to which they had always been subjected. Miro's promise of protection applied only to Wilkinson, and not to the merchandise of other Westerners, and even Wilkinson's prerogatives after a while amounted to nothing. Within a year the trade conditions were the same as they had been before Wilkinson appeared on the scene.†

APPENDIX TO CHAPTER IV.

I. AN ORDINANCE FOR THE GOVERNMENT OF THE TERRITORY OF THE UNITED STATES NORTHWEST OF THE RIVER OHIO.

Section 1. Be it ordained by the United States in Congress assembled, That the said territory, for the purposes of temporary government, be one district, subject, however, to be divided into two districts, as future circumstances may, in the opinion of Congress, make it expedient.

Sec. 2. Be it ordained by the authority aforesaid, That the estates both of resident and non-resident proprietors in the said territory, dying intestate, shall descend to, and be distributed among, their children and descendants of a deceased child or equal parts, the descendants of a deceased child or grandchild to take the share of their deceased parent in equal parts among them; and where there shall be no children or descendants, then in equal parts to the next of kin, in equal degree; and among collaterals, the children of a deceased brother or sister of the intestate

shall have, in equal parts among them, their deceased parent's share; and there shall, in no case, be a distinction between kindred of the whole and half blood; saving in all cases to the widow of the intestate, her third part of the real estate for life, and one-third part of the personal estate; and this law relative to descents and dower, shall remain in full force until altered by the legislature of the district. And until the governor and judges shall adopt laws as hereinafter mentioned, estates in the said territory may be devised or bequeathed by wills in writing, signed and sealed by him or her in whom the estate may be, (being of full age,) and attested by three witnesses; and real estate may be conveyed by

* McMaster, *United States*, vol. i., pp. 522-524.

* Phelps, *Louisiana*, p. 163.

† Gilmore, *Advance-Guard of Western Civilization*, p. 161.

† On Wilkinson's operations, see also Gayarré, *History of Louisiana*, vol. iii., chap. v.; Roosevelt, *Winning of the West*, vol. iii., pp. 123-152; Martin, *History of Louisiana*, vol. ii., pp. 91-110; Wilkinson's *Memoirs*.

lease and release, or bargain sale, signed, sealed, and delivered by the person, being of full age, in whom the estate may be, and attested by two witnesses, provided such wills be duly proved, and such conveyances be acknowledged, or the execution thereof duly proved, and be recorded within one year after proper magistrates, courts, and registers shall be appointed for that purpose; and personal property may be transferred by delivery, saving, however, to the French and Canadian inhabitants, and other settlers of the Kaskaskies, Saint Vincents, and the neighboring villages, who have heretofore preferred themselves citizens of Virginia, their laws and customs now in force among them, relative to the descent and conveyance of property.

Sec. 3. Be it ordained by the authority aforesaid, That there shall be appointed, from time to time, by Congress, a governor, whose commission shall continue in force for the term of three years, unless sooner revoked by Congress; he shall reside in the district, and have a freehold estate therein in one thousand acres of land, while in the exercise of his office.

Sec. 4. There shall be appointed from time to time, by Congress, a secretary, whose commission shall continue in force for four years, unless sooner revoked; he shall reside in the district, and have a freehold estate therein, in five hundred acres of land, while in the exercise of his office. It shall be his duty to keep and preserve the acts and laws passed by the legislature, and the public records of the district, and the proceedings of the governor in his executive department, and transmit authentic copies of such acts and proceedings every six months to the Secretary of Congress. There shall also be appointed a court, to consist of three judges, any two of whom to form a court, who shall have a common-law jurisdiction, and reside in the district, and have each therein a freehold estate, in five hundred acres of land, while in the exercise of their offices; and their commissions shall continue in force during good behavior.

Sec. 5. The governor and judges, or a majority of them, shall adopt and publish in the district such laws of the original States, criminal and civil, as may be necessary, and best suited to the circumstances of the district, and report them to Congress from time to time, which laws shall be in force in the district until the organization of the general assembly therein, unless disapproved of by Congress; but afterwards the legislature shall have authority to alter them as they shall think fit.

Sec. 6. The governor, for the time being, shall be commander-in-chief of the militia, appoint and commission all officers in the same below the rank of general officers; all general officers shall be appointed and commissioned by Congress.

Sec. 7. Previous to the organization of the general assembly the governor shall appoint such magistrates, and other civil officers, in each county or township, as he shall find necessary for the preservation of the peace and good order of the same. After the general assembly shall be organized the powers and duties of the magistrates and other civil officers shall be regulated and defined by the said assembly; but all magistrates and other civil officers, not herein otherwise directed, shall, during the continuance of this temporary government, be appointed by the governor.

Sec. 8. For the prevention of crimes and injuries, the laws to be adopted or made shall have force in all parts of the district, and for the execution of process, criminal and civil, the governor shall make proper divisions thereof; and he shall proceed, from time to time, as circumstances may require, to lay out the parts of the district in which the Indian titles shall have been extinguished, into two counties and townships, subject, however, to such alterations as may thereafter be made by the legislature.

Sec. 9. So soon as there shall be five thousand free male inhabitants, of full age, in the district, upon giving proof thereof to the governor, they shall receive authority, with time and place, to elect representatives from their counties or townships, to represent them in the general assembly: Provided, That for every five hundred free male inhabitants there shall be one representative, and so on, progressively, with the number of free male inhabitants, shall the right of representation increase, until the number of representatives shall amount to twenty-five; after which the number and proportion of representatives shall be regulated by the legislature: Provided, That no person be eligible or qualified to act as a representative, unless he shall have been a citizen of one of the United States three years, and be a resident in the district, or unless he shall have resided in the district three years; and, in either case, shall likewise hold his own right, in fee simple, two hundred acres of land within the same: Provided, also, That a freehold in fifty acres of land in the district, having been a citizen of one of the States, and being resident in the district, or the like freehold and two years' residence in the district, shall be necessary to qualify a man as an elector of a representative.

Sec. 10. The representatives thus elected shall serve for the term of two years; and in case of the death of a representative, or removal from office, the governor shall issue a writ to the county or township, for which he was a member, to elect another in his stead, to serve for the residue of the term.

Sec. 11. The general assembly, or legislature, shall consist of the governor, legislative council, and a house of representatives. The legislative council shall consist of five members, to continue in office five years, unless sooner removed by Congress; any three of whom to be a quorum; and the members of the council shall be nominated and appointed in the following manner, to wit: As soon as representatives shall be elected the governor shall appoint a time and place for them to meet together, and when met they shall nominate ten persons, residents in the district, and each possessed of a freehold in five hundred acres of land, and return their names to Congress, five of whom Congress shall appoint and commission to serve as aforesaid; and whenever a vacancy shall happen in the council, by death or removal from office, the house of representatives shall nominate two persons, qualified as aforesaid, for each vacancy, and return their names to Congress, one of whom Congress shall appoint and commission to serve for the residue of the term; and every five years, four months at least before the expiration of the time of service of the members of council, the said house shall nominate ten persons, qualified as aforesaid, and return their names to Congress, five of whom Congress shall appoint and commission to serve as member of the council five years, unless sooner removed. And the governor, legislative council, and house of representatives shall have authority to make laws in all cases for the good government of the district, not repugnant to the principles and articles in this ordinance established and declared. And all bills, having passed by a majority in the house, and by a majority in the council, shall be referred to the governor for his assent; but no bill, or legislative act whatever, shall be of any force without his assent. The governor shall have power to convene, prorogue, and dissolve the general assembly when, in his opinion, it shall be expedient.

Sec. 12. The governor, judges, legislative council, secretary, and other such officers as Congress shall appoint in the district, shall take an oath or affirmation of fidelity, and of office; the governor

before the President of Congress, and all other officers before the governor. As soon as a legislature shall be formed in the district, the council and house assembled, in one room, shall have authority, by joint ballot, to elect a delegate to Congress who shall have a seat in Congress, with a right of debating, but not of voting, during this temporary government.

Sec. 13. And for extending the fundamental principles of civil and religious liberty, which form the basis whereon these republics, their laws and constitutions, are erected; to fix and establish those principles as the basis of all laws, constitutions, and governments which forever hereafter shall be formed in the said territory; to provide also, for the establishment of States, and permanent government therein, and for their admission to a share in the Federal councils on an equal footing with the original States, at as early periods as may be consistent with the general interest:

Sec. 14. It is hereby ordained and declared, by the authority aforesaid, that the following articles shall be considered as articles of compact, between the original States and the people and States in the said territory, and forever remain unalterable, unless by common consent, to wit:

ARTICLE I.

No person, demeaning himself in a peaceable and orderly manner, shall ever be molested on account of his mode of worship, or religious sentiments, in the said territories.

ARTICLE II.

The inhabitants of the said territory shall always be entitled to the benefits of the writ of *habeas corpus*, and of the trial by jury; of a proportionate representation of the people in the legislature, and of the judicial proceedings according to the course of common law. All persons shall be bailable, unless for capital offences, where the proof shall be evident, or the presumption great. All fines shall be moderate; and no cruel or unjust punishments shall be inflicted. No man shall be deprived of his liberty or property, but by the judgment of his peers, or the law of the land, and should the public exigencies make it necessary, for the common preservation, to take any person's property, or to demand his particular services, full compensation shall be made for the same. And, in the just preservation of rights and property, it is understood and declared, that no law ought ever to be made or to have

force in the said territory, that shall, in any manner whatever, interfere with or affect private contracts, or engagements, bona fide, and without fraud previously formed.

ARTICLE III.

Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged. The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent; and in their property, rights and liberty they never shall be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity shall, from time to time, be made, for preventing wrongs being done to them, and for preserving peace and friendship with them.

ARTICLE IV.

The said territory, and the States which may be formed therein, shall forever remain a part of this confederacy of the United States of America, subject to the Articles of Confederation, and to such alterations therein as shall be constitutionally made; and to all acts and ordinances of the United States in Congress assembled, conformable thereto. The inhabitants and settlers in the said territory shall be subject to pay a part of the Federal debts, contracted, or to be contracted, and a proportional part of the expenses of government to be apportioned on them by Congress, according to the same common rule and measure by which apportionments thereof shall be made on the other States; and the taxes for paying their proportion shall be laid and levied by the authority and direction of the legislatures of the district, or districts, or new States, as in the original States, within the time agreed upon by the United States in Congress assembled. The legislatures of those districts, or new States, shall never interfere with the primary disposal of the soil by the United States in Congress assembled, nor with any regulations Congress may find necessary for securing title in such soil to the bona fide purchasers. No tax shall be imposed on lands the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents. The navigable waters leading into the Mississippi and Saint Lawrence, and the carrying places between the same, shall be common highways, and forever free, as well

to the inhabitants of the said territory as to the citizens of the United States, and those of any other States that may be admitted into the confederacy, without any tax, impost, or duty therefor.

ARTICLE V.

There shall be formed in the said territory not less than three nor more than five States; and the boundaries of the States, as soon as Virginia shall alter her act of cession and consent to the same, shall become fixed and established as follows, to wit: The western State, in the said territory, shall be bounded by the Mississippi, the Ohio, and the Wabash Rivers; a direct line drawn from the Wabash and Post Vincents, due north, to the territorial line between the United States and Canada; and by the said territorial line to the Lake of the Woods and Mississippi. The middle State shall be bounded by the said direct line. The Wabash from Post Vincents to the Ohio, by the Ohio, by a direct line drawn due north from the mouth of the Great Miami to the said territorial line, and by the said territorial line. The eastern State shall be bounded by the last-mentioned direct line, the Ohio, Pennsylvania, and the said territorial line: Provided, however, And it is further understood and declared, that the boundaries of these three States shall be subject so far to be altered, that, if Congress shall hereafter find it expedient, they shall have authority to form one or two States in that part of the said territory which lies north of an east and west line drawn through the southerly bend or extreme of Lake Michigan. And whenever any of the said States shall have sixty thousand free inhabitants therein, such State shall be admitted, by its delegates, into the Congress of the United States, on an equal footing with the original States, in all respects whatever: and shall be at liberty to form a permanent constitution and State government: Provided, The constitution and government, so to be formed, shall be republican, and in conformity to the principles contained in these articles, and, so far as it can be consistent with the general interest of the confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the State than sixty thousand.

ARTICLE VI.

There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes, whereof the party shall

have been duly convicted: Provided always, That any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original States, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service as aforesaid.

Be it ordained by the authority aforesaid, That

the resolutions of the 23d of April, 1784, relative to the subject of this ordinance, be, and the same are hereby, repealed, and declared null and void.

Done by the United States, in Congress assembled, the 13th day of July, in the year of our Lord 1787, and of their sovereignty and independence the twelfth.

II. LETTERS OF DANE AND KING REGARDING AUTHORSHIPS OF ORDINANCE OF 1787.

On the 15th of April, 1785, the day after the Grand Committee, of which Mr. King was a member, had reported to Congress the Ordinance relating and disposing of the public lands, which became a law on the 20th of May following:—Mr. King thus acknowledges Mr. Pickering's letter:

"NEW YORK, April 15, 1785.

"The best return in my power to make you for your ingenious communications on the mode of disposing of the Western Territory, is to inclose, for your examination, the form of an Ordinance, reported to Congress on the subject.
 I likewise inclose you the report on a motion for the exclusion of slavery from the new states. Your ideas on this subject are so just, that it would be impossible to differ from them."

Of the report on the exclusion of slavery, here mentioned, no trace is to be found. It must refer, one would suppose, to the resolution submitted by Mr. King himself, on the 16th of March, and committed on that day; but no allusion in the journal, nor any other than thus casually in Mr. King's letter to Mr. Pickering, has been found.

But it is certain, that Mr. King did not abate of his zeal on the subject, and when, in November, 1785, Nathan Dane became one of his colleagues from Massachusetts, and a new Ordinance for governing the Western Territory came under the consideration of Congress, as has already been related, in September, 1786, and in varying shapes, occupied its attention, at times, through the residue of that year, and through the year 1787, until its final adoption, in July, of the last year, it is on the record of the journal, that Mr. King took constant and earnest part in its discussion. If, then, in the Ordinance, as finally adopted, shall be found embodied specific propositions made by Mr. King, and by him only; and if it shall appear, as now I am about to make it appear, that the authorship of the Ordinance was Mr. Dane's, and not Mr. Jefferson's, as has been so long claimed, and recently with emphatic and confident argument by Governor Coles, formerly of Illinois; the deduction would seem le-

gitimate and conclusive, that Mr. Dane, acting with his colleague, had accepted and embodied his suggestions in the Ordinance.

Let the chief of these suggestions be briefly set forth: First, the most important, is that prohibiting slavery. Mr. Jefferson's proviso was *prospective*; that of Mr. King, *immediate*; the proviso of the Ordinance of 1787 was *immediate*, and in the identical words offered by Mr. King, 16th March, 1785, except that his proviso reached to all the territory embraced in Mr. Jefferson's resolutions of April, 1784, while that of the Ordinance was restricted, necessarily, perhaps, to the precise territory which that Ordinance was framed to govern. In other respects, the language is identical, changing only the words, "shall have been personally guilty," as used by Mr. King, to "shall have been duly convicted," in the Ordinance. Mr. Dane nowhere appears on the record to have made any motion himself in Congress, on the subject of slavery, and, therefore, finding that of Mr. King in the journals, and having it urged upon his attention, doubtless, by Mr. King himself, he adopted it as his own.

Article III. of the fundamental articles, thus stipulated: "Religion, morality, and knowledge, being necessary to good government, and the happiness of mankind, schools, and the means of education, shall forever be encouraged."

Of this there is nothing in the Jefferson resolutions of April, 1784, but the extracts given from Mr. Pickering's letters, and the journals of Congress, during 1785-6, when the land ordinances were under discussion, show how perseveringly, and to a certain extent successfully, Mr. King labored to obtain, for the purposes of education and of religion, reserved townships in every range.

And last, and hardly perhaps second in importance to the first—the Proviso of Freedom—of a kin, indeed, with it, is that proviso, incalculable in its value as a bond of union; incalculable in its value to commercial intercourse, and to good neighborhood, which stipulates "that the navigable waters leading into the Mississippi and the St. Lawrence, and the carrying places between the

same shall be common highways, and forever free, as well to the inhabitants of the said territory, as to the citizens of the United States, and those of any other states that may be admitted into the Confederacy, without any tax, impost, or duty therefor."

This, in the first instance, was due to the far-reaching and statesmanlike suggestions of Timothy Pickering, and was introduced into Congress by the joint agency of Virginia and Massachusetts; states which then stood, as, during the war, they had stood, shoulder to shoulder, on so many trying occasions. Mr. Pickering, in a letter to Rufus King, of 8th March, 1785, discussing the Ordinance then under the consideration of Congress, for regulating the Western Territory, thus sagaciously writes:

"Water communications in that country will always be in the highest degree interesting to the inhabitants. It seems very necessary to secure the freedom of navigating these, to all the inhabitants of all the states. I hope we shall have no Scheldts in this country."

So wise a suggestion was not lost upon his correspondent, and, accordingly, on the 12th of March, 1786, while the Ordinance "for ascertaining the mode of locating and disposing of the public lands in the Western Territory, was under consideration, Mr. Grayson, of Virginia, who, as the journals show, acted very frequently in concert with Mr. King, and who separated from his colleagues, and voted *aye* on Mr. King's Anti-Slavery proviso, on 16th March, of the same year, less than two months before, moved this resolution, which was seconded by Mr. King, and adopted:

"*Resolved*, That the navigable waters leading into the Mississippi and the St. Lawrence, and the carrying places between the same be, and are hereby declared to be, common highways, and to be forever free, as well to the inhabitants of said Territory, as to the citizens of the United States, and those of any other state that may be admitted into the Confederation, without any tax, duty, or impost therefor."

This resolution without the change of a letter, is embodied in the Ordinance of 1787; and thus we see that the two important provisos; the one *against* slavery extension, and the other *for* the inviolable freedom to all American citizens, in all time, and exempt from all impost or taxation, of the great navigable waters of the Union, designed by God Himself as the highway of nations, originally proposed or promoted by Mr. King; were taken by Mr. Dane from the records of Congress, and introduced into his immortal Ordinance.

And now for the conclusive proof that this Ordinance was *his*—prepared and drafted by him, and accepted unanimously by Congress, almost without alteration. This proof is in the letter of which the annexed is a full, literal, and exact copy from the original, in my hands:

NEW YORK, July 16, 1787.

TO THE HON. RUFUS KING, ESQ., *Philadelphia*:

DEAR SIR:—I am obliged to you, for yours of the 11th inst. With pleasure I communicate to you what we are doing in Congress; not so much from a consciousness, that what we do is well done, as from a desire that you may be acquainted with our proceedings. We have been much engaged in business for ten or twelve days past, for a part of which we have had eight states. There appears to be a disposition to do business, and the arrival of R. H. Lee is of considerable importance. I think his character serves, at least, in some degree, to check the effects of the evil habits, and lax mode of thinking of some of his countrymen. We have been employed about several objects, the principal of which have been the Government* inclosed, and the Ohio purchase; the former, you will see, is completed, and the latter will probably be completed to-morrow. We tried one day to patch up M . . . 's † system of W. government, started new ideas, and committed the whole to Carrington, Dane, R. H. Lee, Smith and Kean. We met several times, and at last agreed on some principles; at least Lee, Smith, and myself. We found ourselves rather pressed. The Ohio Company appeared to purchase a large tract of the federal lands—about six or seven millions of acres—and we wanted to abolish the old system, and get a better one for the government of the country, and we finally found it necessary to adopt the best system we could get. All agreed finally to the inclosed plan, except A. Yates. He appeared in this case, as in most others, not to understand the subject at all. I think the number of free inhabitants, sixty thousand, which are requisite for the admission of a new state into the Confederacy, is too small; but, having divided the whole Territory into three states, this number appears to me to be less important. Each state, in the common course of things, must become important, soon after it shall have that number of inhabitants. The Eastern state of the three, will probably be the first, and more important than the rest, and will no doubt

* The Ordinance of 1787, adopted on 13th July.

† These initials refer, possibly, to the plan proposed by Mr. Monroe.

be settled chiefly by Eastern people; and there is, I think, full an equal chance of its adopting Eastern politics. When I drew the Ordinance (which passed, a few words excepted, as I originally formed it,) I had no idea the states would agree to the sixth article, prohibiting slavery, as only Massachusetts, of the Eastern States, was present, and therefore omitted it in the draft; but, finding the House favorably disposed on this subject, after we had completed the other parts, I moved the article, which was agreed to without opposition. We are in a fair way to fix the terms of our Ohio sale, etc. We have been upon it three days steadily. The magnitude of the purchase makes us very cautious about the terms of it, and the security necessary to insure the performance of it. We have directed the Board to examine and report upon Holkar's affair.

Massachusetts Legislature was prorogued the 7th instant, having continued the Tender Act, as it is called, to January, 1788, and having passed no other act of importance, except what, I presume, you have seen respecting the raising of troops, and the power of the governor, to pursue the rebels, etc.* You ask me how I like my new colleagues. Sedgewick, you know, we all esteem; but I fear he will not make his attendance an object. Thatcher, I am quite unacquainted with. I do not know whether Mr. Otis, at this period of life, and under his misfortunes, will enter with vigor into federal politics. I wish his accounts with the Union had been settled, etc.

Nothing more worth particular notice.

Your affectionate friend,

N. DANE.

HON. R. KING.

P. S. States present: Massachusetts, New York, New Jersey, Delaware, Virginia, North Carolina, South Carolina, and Georgia. Brother Holten is rather an invalid; is not able to take an active part in business; but I think supports pretty good Eastern politics.

This letter, now for the first time made public, was written, it will be seen, three days only after the passing of the famous Ordinance, before there was any controversy about it, and without consciousness, so far as the modest tenor of the whole letter can witness, of the priceless value of the Act thus perfected. The course of the preparation, discussion, and final adoption of the Ordinance, is

related with entire simplicity. No doubt, therefore, can now be entertained, that Mr. Dane did frame the Ordinance throughout; that it was he who directed the mode of presenting it to the House, and carrying it through all its stages.

Mr. Carrington, of Virginia, named first on the Committee, and, therefore, by usage, its chairman, did not, as appears by this letter, agree with the majority of the Committee, and, therefore, probably declined to report the Ordinance, devolving that duty on Mr. Dane, who stood next on the list, and who was in the majority. This explains, what heretofore has not been understood, how Mr. Dane, the second on the Committee, came to be its reporter; and the almost literal accuracy is hereby established of the account given by Daniel Webster, in his Oration against Hayne, on the Foot resolutions, in the United States Senate, in 1830, that this Ordinance "was drawn by Nathan Dane, and adopted by Congress, without the slightest alteration." "A few words excepted," says Mr. Dane, "and the Ordinance passed as I originally formed it."

Having thus established the conclusiveness of the claim of authorship of the Ordinance of 1787, for Nathan Dane, and shown that to Rufus King, and indirectly to Timothy Pickering, belongs the suggestion of the provisos contained in it *against* slavery, and *for* aids to religion and knowledge, and *for* assuring forever the common use, without charge, of the great national highways of the Mississippi, the St. Lawrence, and their tributaries, and their carrying places, to all the citizens of the United States; and having, at the same time, by spreading *in extenso* before the readers of this chapter, both the resolution of Mr. Jefferson, of April, 1784, and the Ordinance of 1787, put it within their reach, to compare these instruments, and thus ascertain how much of one is borrowed from, or is suggested by the other; it may be said, in conclusion, that in endeavoring to assign to each of the prominent actors in this great scene his due merit and responsibility, no desire has been felt nor, it is hoped, manifested, even unconsciously, of magnifying any one at the expense of others. Enough of enduring reputation for each and all, must forever honor the names of Dane, and Jefferson, and Pickering, and King, for the part taken by each in the long, laborious, and eventful struggle, which had so glorious a consummation in the Ordinance, consecrating forever, by one imprescriptible and unchangeable monument, the very heart of our land to Freedom, Knowledge and Union.

* Refers to Shays's rebellion.

CHAPTER V.

1783-1787.

THE WEAKNESS OF THE CONFEDERATION.

The powers of Congress — Its recommendations treated with contempt — Small attendance of members — Washington's interest — Suggestions for amending Articles of Confederation — Boundary dispute between Virginia and Maryland — The Alexandria convention — The Annapolis convention — Federal Convention suggested — Delegates appointed by various States — The resolution of Congress for a convention — Shays' Rebellion hastens action. Appendix to Chapter V.— I. Hannis Taylor on Peletiah Webster's Plan of Government. II. Webster's *Dissertation on the Political Union and Constitution of the Thirteen United States of North America*.

Such in brief and in general were the conditions when America became independent of the mother country. Washington and the other statesmen of the period, however, were anxiously looking forward into the future, and many a dark foreboding filled their minds. They regarded the unhappy state of affairs as of the greatest concern to the entire country,* for at the time there was practically no government, and what little survived was totally inefficient. Nationality was practically unknown; disputes between the States and jealousies between the members of Congress were prevalent. Jefferson says: "Our body was little numerous, but very contentious. Day after day was wasted on the most unimportant questions."† The small States were very suspicious

and jealous of the power of the larger States, while on the other hand the larger States were not disposed to allow the small States any advantages which might accrue because of proximity to and commercial relations with them. The jealousies between the large and small States were not calculated to arouse any feeling of nationality in the country, for the larger States had no desire to witness a condition of affairs where the small States would have the same influence in the councils of the nation as they themselves.* It had become a question whether there was to be any country at all; whether the colonies were to be one nation or thirteen separate municipalities;

* In the early days of the Constitutional Convention, however, Madison said that "the States were divided into different interests, not by their difference of size, but by other circumstances; the most material of which resulted partly from climate, but principally from the effects of their having or not having slaves. These two causes concurred in forming the great division of interests in the United States. It did not lie between the large and small States. It lay between the Northern and Southern."—Gay, *Life of Madison*, p. 79.

* See Washington's letters of March 31, 1783, to Hamilton, Washington's *Writings*, vol. viii., p. 409 (Sparks' ed.), April 5, 1783, to LaFayette, *ibid.*, p. 411, his address to the States June 5, 1783, *ibid.*, p. 439.

† Ford's ed. of Jefferson's *Writings*, vol. i., p. 81.

whether there was to be union, efficiency, and energy at home, which in turn would bring respect and confidence abroad,* and whether there was to be a national government, a national character, and national integrity and honor. John Quincy Adams says:

"A Confederation is not a country. There is no magnet of attraction in any league of Sovereign and Independent States which causes the heart-strings of the individual man to vibrate in unison with those of his neighbor. Confederates are not Countrymen, as the tie of affinity by convention can never be so close as the tie of kindred by blood. The Confederation of the North American States was an experiment of inestimable value, even by its failure. It taught our fathers the lesson, that they had more, infinitely more to do than merely achieve their Independence by war. That they must form their social compact upon principles never before attempted upon earth. * * * The Confederation was perhaps as closely knit together as it was possible that such a form of polity could be grappled; but it was matured by the State Legislatures without consultation with the People, and the jealousy of sectional collisions, and the distrust of all delegation of power, stamped every feature of the work with inefficiency."†

This state of affairs was to a great extent due to the fact that while the Articles of Confederation professed to be articles of perpetual union, Congress had no power to effect or maintain the union. Exclusive power was given to Congress for certain purposes, but that body possessed no ability to execute any of these powers. "They may make and con-

clude treaties, but can only recommend the observance of them. They may appoint ambassadors, but cannot even defray the expenses of their tables; they may borrow money in their own name, on the faith of the Union, but cannot pay a dollar. They may coin money; but they cannot purchase an ounce of bullion. They may make war, and determine what number of troops are necessary, but cannot raise a single soldier. In short, they may declare every thing, but do nothing.* Justice Story, in his *Commentaries on the Constitution of the United States*, points out the inherent defects of the Confederation in all those particulars which had reference to its answering the design and necessities of a national government,† and Curtis in his *Constitutional History*,‡ also sets forth both the advantages and defects of the Confederation. Undoubtedly much had been accomplished. Nationality had been given an impulse, and good work had been done in obtaining the cession of lands by the States to the general government, but Congress possessed no authority to compel obedience.¶ It had been totally in-

* Story, *Commentaries on the Constitution*, vol. i., p. 175. See also Pellew, *John Jay*, pp. 245-246; Schouler, *United States*, vol. i., p. 17; McLaughlin, *The Confederation and the Constitution*, p. 47 *et seq.*; Fiske, *Critical Period of American History*, p. 90 *et seq.* See also Jay's *Works*, vol. iii., p. 294; Ford's ed. of *Jefferson's Writings*, vol. i., pp. 108, 114.

† Vol. i., p. 174 *et seq.* (5th ed. 1891).

‡ Vol. i., p. 221 *et seq.*

¶ Writing to Monroe August 7, 1785, Madison said: "I conceive it to be of great importance

* Regarding this aspect of the matter see John Adams' letter of May 8, 1785, to Secretary Jay, in his *Works*, vol. viii., pp. 242-246.

† *Lives of James Madison and James Monroe*, pp. 19-20.

efficient in securing the means of feeding, clothing and paying the army, and at the end of the war was without any means of meeting its obligations either at home or abroad. It had been compelled to resort to expedients which were entirely at variance with economy, integrity and strict adherence to public faith and honor, and in whatever it did it was compelled to wait upon the oftentimes tardy assent of thirteen distinct legislative bodies. Efforts had been made to secure larger powers for the general government, but these efforts resulted in miserable failure. State interests predominated and clashed and jealousies prevailed, with the only possible result, that, being without resources and without power, the Confederation was fast expiring of its own debility. Indeed, as Madison says, "the present system neither has nor deserves advocates; and if some very strong props are not applied, will quickly tumble to the ground. No money is paid into the public Treasury; no respect is paid to

the federal authority. Not a single State complies with the requisitions; several pass them over in silence, and some positively reject them. The payments, ever since the peace, have been decreasing, and of late fall short even of the pittance necessary for the civil list of the Confederacy. It is not possible that a government can last long under these circumstances." *

The recommendations of Congress were treated with open contempt,† which could not but be expected under the existing political conditions. Each of the States retained the rights of sovereignty and claimed for itself the power to coin money, levy taxes, impose duties and raise armies; in fact Congress was treated as though it were a foreign body, every act being scrutinized with the most censorious care. One of the

* Letter to Edmund Pendleton, February 24, 1787, *Madison's Works* (Congress ed.), vol. i., p. 279.

† See letter from Mann Page to Richard Henry Lee dated December 14, 1784, quoted in Conway, *Edmund Randolph*, p. 61. Writing to Randolph, Madison says: "Our situation is becoming every day more and more critical. No money comes into the federal treasury; no respect is paid to the federal authority; and people of reflection unanimously agree that the existing Confederacy is tottering to its foundation. Many individuals of weight, particularly in the eastern district, are suspected of leaning toward monarchy. Other individuals predict a partition of the States into two or more confederacies. It is pretty certain that if some radical amendment of the single one cannot be devised and introduced, one or the other of these revolutions, the latter, no doubt, will take place."—Gay, *Life of Madison*, p. 77. See also his letter to Jefferson, May 12, 1786, in *Madison's Works*, vol. i., p. 233.

that the defects of the federal system should be amended, not only because such amendments will make it better answer the purpose for which it was instituted, but because I apprehend danger to its very existence from a continuance of defects which expose a part, if not the whole, of the empire to severe distress. The suffering part, even when the minor part, cannot long respect a Government which is too feeble to protect their interests; but when the suffering part comes to be the major part, and they despair of seeing a protecting energy given to the General Government, from what motives is their allegiance to be any longer expected?"—*Madison's Works* (Congress ed.), vol. i., p. 171.

causes of this was the system of representation, which was bad from the beginning. Regardless of population, each State was allowed to send to Congress not more than seven nor less than two delegates, so that Virginia, with her 700,000 inhabitants, had no more influence in the councils of the nation than little Rhode Island with only one-tenth as many inhabitants.* The States were to pay the expenses of their representatives but as the State finances were not in a flourishing condition, there were seldom more than two delegates from any one State present at the sessions of Congress, while at times some of the States were entirely unrepresented. Often during the war, when Congress should have had ninety-one members, hardly twenty-five were present, and on more than one occasion Congress was compelled to adjourn for several consecutive days, because there was no quorum.† Even when Washington presented his resignation there were but twenty delegates present, representing seven States, while only twenty-three members from eleven States were present to vote for the ratification of the treaty. The national body therefore became the subject for taunts and jeers on the part of many of the populace. But others were working to gain for it good will and support, laying bare the folly of expecting a body without power to enforce laws,

and also showing that the States were withholding from Congress the very power they wished that body to exert, and because of the failure to do which they were so loudly complaining. When the recommendations of Congress were in accord with the wishes of the State Legislatures, they were adopted, but if a sacrifice were demanded for the good of the entire country, they were disregarded or openly despised as an usurpation of State rights. Patriotism meant loyalty to the interest of the individual State, and there were few at that time who could rise above such interests.

Washington, Jefferson, Adams, Madison, Hamilton, Jay and others of their stamp were unfortunately at this time either busy with private affairs, abroad in the diplomatic service of the Confederation, or overwhelmed with State and local politics.* After his retirement from the army, Washington had gone to his farm where he engaged in agricultural pursuits, at the same time maintaining an extensive and important correspondence regarding public affairs.† His letters manifest a deep interest in the affairs of the country, and indicate how earnestly he entered into a consideration of what seemed to be the best way in which peace and prosperity could be attained and secured. In the latter part of 1784 he made a long tour through the western

* Schouler, *United States*, vol. i., p. 18.

† McMaster, *United States*, vol. i., pp. 131-132.

* Schouler, *United States*, vol. i., p. 32.

† See Sparks, *Life of Washington*, p. 376 *et seq.*

country, and upon his return strongly urged the Legislature of Virginia to open up better means of communication and intercourse with the Western States.* After his resignation, several efforts had been made in Pennsylvania† and in Virginia to induce Washington to accept remuneration for his services during the war, but he opposed every advance of this nature. He was more concerned with promoting the general interests of the country as a whole, rather than his own personal affairs. In this respect he was much concerned with the need of a speedy and efficient remedy for the defects of the government as his letters at this period demonstrate. Writing to James Warren, of Massachusetts, in October, 1785, he says:

"The Confederation appears to me to be little more than a shadow without the substance, and Congress a nugatory body, their ordinances being little attended to. To me it is a solecism in politics; indeed, it is one of the most extraordinary things in nature, that we should confederate as a nation, and yet be afraid to give the rulers of that nation, who are the creatures of our own making, appointed for a limited and a short duration, and who are amenable for every action, recallable at any moment, and subject to all the evils which they may be instrumental in producing, sufficient powers to order and direct the affairs of the same. By such policy, the wheels of the government are clogged, and our brightest prospects, and that high expectation, which was entertained of us, by a wondering world, are turned into astonishment; and from the high ground on which we stood, we are descending into the vale of confusion and darkness.

* See his letter to the Governor of Virginia, in Sparks, pp. 379-381. See also Fiske, *Critical Period*, pp. 211-213.

† The instructions of the Pennsylvania Council to the delegates in Congress from that State are given in Sparks, pp. 375-376.

That we have it in our power to become one of the most respectable nations upon earth, admits, in my humble opinion, of no doubt, if we would but pursue a wise, just, and liberal policy towards one another, and would keep good faith with the rest of the world. That our resources are ample, and increasing, none can deny; but while they are grudgingly applied, or not applied at all, we give a vital stab to public faith, and will sink in the eyes of Europe into contempt." *

In a letter to John Jay, he writes as follows:

"Your sentiments, that our affairs are drawing rapidly to a crisis, accord with my own. What the event will be, is also beyond the reach of my foresight. We have errors to correct; we have probably had too good an opinion of human nature, in forming our Confederation. Experience has taught us, that men will not adopt and carry into execution, measures the best calculated for their own good, without the intervention of coercive power. I do not conceive we can subsist long as a nation, without lodging somewhere a power which will pervade the whole Union in as energetic a manner, as the authority of the state governments extends over the several states. To be fearful of investing Congress, constituted as that body is, with ample authorities for national purposes, appears to me the very climax of popular absurdity and madness. Could Congress exert them for the detriment of the people, without injuring themselves in an equal or greater proportion? Are not their interests inseparably connected with those of their constituents? By the rotation of appointment, must they not mingle frequently with the mass of citizens? Is it not rather to be apprehended, if they were possessed of the powers before described, that the individual members would be induced to use them on many occasions, very timidly and inefficaciously, for fear of losing their popularity and future election? We must take human nature as we find it; perfection falls not to the share of mortals. Many are of opinion, that Congress have too frequently made use of the suppliant humble tone of requisition, in applications to the states, when they had a right to assert their imperial dignity, and command obedience. Be that as it may, *requisitions* are a perfect nullity, where thirteen sovereign, independent, *dis-united* states, are in the habit of discussing, and refusing, or complying with them,

* Sparks' ed. of *Washington's Writings*, vol. ix., p. 139.

at their option. Requisitions are actually little better than a jest and a by-word throughout the land. If you tell the legislatures, they have violated the treaty of peace, and invaded the prerogatives of the Confederacy, they will laugh in your face.

"What, then, is to be done? Things cannot go on in the same train forever. It is much to be feared, as you observe, that the better kind of people, being disgusted with these circumstances, will have their minds prepared for any revolution whatever. We are apt to run from one extreme into another. To anticipate and prevent disastrous contingencies, would be the part of wisdom and patriotism.

"What astonishing changes are a few years capable of producing! I am told that eleven respectable characters speak of a monarchical form of government, without horror. From thinking, proceeds speaking; thence to acting, is often but a single step. But how irrevocable and tremendous! What a triumph for our enemies to verify their predictions! What a triumph for the advocates of despotism, to find that we are incapable of governing ourselves, and that systems founded on the basis of equal liberty, are merely ideal and fallacious! Would to God, that wise measures may be taken in time, to avert the consequences we have but too much reason to apprehend.

"Retired as I am from the world, I frankly acknowledge, I cannot feel myself an unconcerned spectator. Yet having happily assisted in bringing the ship into port, and having been fairly discharged, it is not my business to embark again on a sea of troubles. Nor could it be expected, that my sentiments and opinions would have much weight on the minds of my countrymen. They have been neglected, though given as a last legacy, in the most solemn manner. I had then, perhaps, some claims to public attentions. I consider myself as having none at present."*

Meanwhile, there seemed to be no way of escape from the impending

ruin. According to Marshall, two great parties had been formed in every State, pursuing distinct objects with systematic arrangement. "The one struggled for the exact observance of public and private tracts. Those who composed it, were the uniform friends of the regular administration of justice, and of a vigorous course of taxation, which would enable the state to comply with its engagements. By a natural association of ideas, they were also in favor of enlarging the powers of the federal government, and of enabling it to protect the dignity and the character of the nation abroad, and its interests at home. The other party marked out for themselves a more indulgent course. They were uniformly in favor of relaxing the administration of justice, of affording facilities for the payment of debts, or of suspending their collection, and of remitting taxes. The same course of opinion led them to resist every attempt to transfer from their own hands into those of Congress, powers which others deemed essential to the preservation of the Union. Wherever this party was predominant, the emission of paper money, the delay of legal proceedings, and the suspension of taxes, were the fruits of their rule. Even where they failed to carry their measures, their strength was such as to encourage the hope of succeeding in a future attempt. Throughout the Union, the contest between these parties was annually revived, and the

* See Sparks, *Life of Washington*, pp. 393-394; Irving, *Life of Washington*, vol. iv., pp. 520-522. Writing to John Adams, November 14, 1786, Samuel Osgood says: "The British party is and will be great; the French party also; the genuine Americans, few; the speculators numerous, who care not what the government is, so that they can speculate upon, and sponge it."—John Adams, *Works*, vol. viii., pp. 420-421.

public mind was perpetually agitated with hopes and fears on subjects which affected essentially the fortunes of a considerable portion of society. This instability in principles, which ought to be rendered immutable, produced a long train of ills; and is believed to have been among the operating causes of those pecuniary embarrassments which influenced the legislation of almost every state. The wise and thinking part of the community, who could trace evils to their source, labored unceasingly to inculcate opinions favorable to the incorporation of some principles into the political system, which might correct its obvious vices, without endangering its free spirit."

Others beside Washington were dissatisfied and disappointed. On September 3, 1780, before the Articles of Confederation had been adopted by all the States, Hamilton had written to James Duane, pointing out the defects of the Confederation, and indicating the necessary modifications. He said that unless Congress should assume the dictatorial power which belonged to it, a general convention should be called at once.* Two years later he began the publication in the newspapers of a series of articles, in which he lay bare the frailties of the existing system and urged that Congress be empowered to levy taxes

and regulate commerce. He said that there was something "diminutive and contemptible in the prospect of a number of petty states, with the appearance only of union, jarring, jealous and perverse, without any determined direction, fluctuating and unhappy at home, weak and insignificant by their dissensions in the eyes of other nations."*

"As early as 1781 Pelatiah Webster was the first to propose to the people of the United States, in one of his financial essays published at Philadelphia in May of that year, the calling of a 'Continental Convention' for the making of a new Constitution.† In bearing testimony to that fact, Madison said that Pelatiah Webster, 'after discussing the fiscal system of the United States, and suggesting, among other remedial provisions, one including a national bank, remarks, that "*the authority of Congress is very inadequate to the performance of their duties; and this indicates the necessity of their calling a Continental Convention for the express purpose of ascertaining, defining, enlarging, and limiting the duties and powers of their Constitution.*"'‡ Two years after he had thus sounded the tocsin

* Hamilton's *Works*, vol. ii., p. 201.

* Hamilton's ed. of Hamilton's *Works*, vol. i., p. 150 *et seq.*; Lodge's ed., vol. i., p. 203. See also Curtis, *Constitutional History*, vol. i., pp. 138, note, 236-239, notes.

† The fact that "Alexander Hamilton made the same suggestion in a private letter to James Duane, September 3, 1780," is of no importance. It was not a public act, not even a public declaration. See Gaillard Hunt, *Life of James Madison*, p. 108.

‡ The *Madison Papers* (1841), vol. ii., pp. 706-7.

for the States to assemble, he made the invention and published to the world, in detail, the plan upon which the Constitution was to be formed. While the historian Bancroft* failed to appreciate the stupendous importance of his work, he frankly admits that he actually performed it when he says: "The public mind was ripening for a transition from a confederation to a real government. Just at this time Pelatiah Webster, a graduate of Yale College, in a dissertation published at Philadelphia, proposed for the legislature of the United States *a Congress of two houses* which should have ample authority for making laws "*of general necessity and utility,*" and enforcing them *as well on individuals as on States*. He further suggested not only heads of executive departments, but judges of law and chancery. The tract awakened so much attention that it was reprinted in Hartford, and called forth a reply.' "†

Madison had also been working in Congress to effect an improvement in the articles. In March, 1781, he brought in a report from a committee, in which it was stated that inasmuch as the States had ratified the articles, Congress was vested with

the right and power to carry them into effect against any refractory State which refused to abide by the determination of Congress. It was also advised in this report that Congress be empowered by an additional article to employ the United States forces to compel compliance on the part of the States to their Federal engagements. Congress, however, hesitated to adopt such an article. In the following August, another committee prepared a report declaring that the articles needed revision in twenty-one different particulars, and that several additional powers should be given Congress. Again in 1786, a special committee suggested that the Confederation be enlarged and improved by the addition of seven articles, but Congress did nothing in the matter for it was almost impossible even to secure the passage of the most insignificant resolutions—that body was practically helpless.*

As early as 1782 New York proposed that a convention be held to revise the articles, but Congress took no action on this recommendation. By 1784, according to Richard Henry Lee, the plan of holding a general convention was common talk among the members of Congress.† In 1785 the General Court of Massachusetts passed resolutions favoring the revision of the articles, but her delegates in Congress refused to intro-

* *History of the Constitution of the United States*, vol. i., p. 86.

† Quoted from Hannis Taylor's Memorial, *Senate Doc.* 461, 60th Congress, 1st session, pp. 9-10 (Presented to the Senate by Mr. Carter May 4, 1908). For another excerpt from this Memorial and for Webster's plan, see Appendix.

* McLaughlin, *The Confederation and the Constitution*, pp. 171-172.

† Hunt, *Life of Madison*, p. 108.

duce these resolutions,* and on November 25, 1785, the legislature of that State annulled them.† Virginia also indicated that she would advance the cause of reform. On November 30, 1785, it was proposed in the Virginia House of Delegates that the Virginia representatives in Congress be instructed to move that all the States authorize Congress to collect a revenue by means of duties uniform throughout the country for a period of thirteen years. That such a system was imperative was generally admitted, but the members were divided in opinion as to whether the powers should be permanent or limited to a certain term. Those favoring a limited term said that the matter ought to be thoroughly tested before a grant of power was given to Congress, and if experience showed the measure to be efficacious, the grant of temporary power to Congress could be renewed from time to time. They seemed to forget, however, that the other powers granted to the Union, upon which its whole fabric rested, were perpetual and irre-

vocable, and that the scheme of temporary grants of power would only reopen from time to time, as the terms of the grant expired, the old sectional fights due to the diversity of interests of the several States.* The advocates of the measure in the House of Delegates won, however, but before it was carried up to the Senate a new event opened up the prospect of a more efficient plan and the resolution was reconsidered and laid on the table.†

This event was brought about by the dispute between Maryland and Virginia regarding the boundary line between the two States. This boundary line had always been regarded as the Potomac River, and was so defined in the charter given to Maryland by Lord Baltimore, save that he gave the colonial governors jurisdiction over the entire river to the southern shore.‡ In her constitution of 1776, Virginia recognized this charter and gave Maryland all the rights demanded, excepting the free use and navigation of the Potomac and Poko-

* Curtis, *Constitutional History*, vol. i., pp. 225-227; McLaughlin, p. 173. In preparing a defence of their action, Rufus King said: "We are sensible that our duty points out a prompt and exact compliance with the instructions of the legislature. But if a case arises wherein we discover most clearly consequences so fatal that, had they been known, perhaps the measure adopted would not have been proposed, it may not be improper to delay a final execution until we have the instructions of the legislature after such pernicious consequences shall have been submitted to their examination."

† Curtis, vol. i., p. 228.

* Hamilton says: "'More power in Congress' has been the cry from all quarters, but especially of those whose views, not being confined to a government that will best promote the happiness of the people, are extended to one that will afford lucrative employments, civil and military. Such a government is an aristocracy which would require a standing army and a numerous train of pensioners and placemen to prop and support its exalted administration."—*History of the Republic*, vol. iii., pp. 139, 145.

† Curtis, vol. i., pp. 229-230.

‡ Hunt's ed. of *Madison's Writings*, vol. ii., p. 41; *Madison's Works* (Congress ed.), vol. i., pp. 73-74.

moke from their sources to their mouths. But this division of authority resulted in many evasions of the import duties, and when this was brought to Madison's attention, in 1784, he suggested that a joint commission be appointed by the two States to define the power of each on the river.* Jefferson warmly approved the suggestion, and Virginia thereupon appointed as commissioners, George Mason, Edmund Randolph, James Madison, and Alexander Henderson, any three of whom should have power to act. In the fall of 1784, Maryland also appointed three—Samuel Chase, Thomas Stone, and Daniel of St. Thomas Jenifer.

In March, 1785, the joint commission assembled at Alexandria, but soon adjourned to Mt. Vernon.† While at the latter place, the commissioners entered into a compact regarding the navigation of and jurisdiction over the Potomac and Potomoke rivers and Chesapeake Bay. Each State granted the other freedom of trade over its waters, but there was to be no free trade between the States. The States were to maintain lighthouses, buoys, etc., on the Potomac and Bay, Virginia paying five-eighths and Maryland three-eighths of the expense. A supplementary report was also agreed to concerning

the questions of uniform export and import duties, regulation of commerce, currency, rates of exchange, etc.* They agreed also that proposals be made to their respective governments, regarding the appointment of other commissioners, who should have power to make arrangements, with the assent of Congress, for maintaining a naval force on the Chesapeake, and for establishing a uniform rate of import duties, to which the laws of both States should conform.‡ The commissioners therefore reported the results of their meeting, and the Maryland Legislature was the first to act. In November, 1785, she proposed that Delaware and Pennsylvania be invited to join the two States in a common system of commercial policy.‡

Shortly afterward Madison drew up a resolution to be presented to the Virginia Legislature, calling for a convention of commissioners from all the States. As he was a member of Congress and as Congress was viewed with jealousy, he secured the services of his friend John Tyler to introduce the measure, but it was laid on the table.|| The Maryland resolution,

* Scharf, *History of Maryland*, vol. ii., p. 531.

* Hunt, *Life of Madison*, pp. 87-88; McMaster, *United States*, vol. i., pp. 277-278.

† Baneroft, vol. vi., p. 129. See also Marshall, *Life of Washington*, vol. v., p. 90; Madison's letter in Sparks' ed. of *Washington's Writings*, vol. ix., p. 509.

‡ Marshall, *Life of Washington*, vol. ii., p. 105 (2d ed.); Hunt, *Life of Madison*, pp. 89-91; Thorpe, *Story of the Constitution*, pp. 102-104; Fiske, *Critical Period*, pp. 213-214; Rives, *Life of Madison*, vol. i., p. 548, vol. ii., p. 57.

‡ Scharf, *History of Maryland*, vol. ii., p. 532.

|| Fiske, *Critical Period*, pp. 214-215; Adams, *Lives of Madison and Monroe*, p. 29. Madison says he secured the services of Mr. Tyler because "having never served in Congress, [Tyler] had

with the report of the commissioners, was then discussed and a series of resolutions passed which, while falling short of Madison's intentions, went a long way in that direction.* Madison then urged that the proposed convention, in addition to preparing a uniform system of duties between the States, should go beyond this by considering the state of the trade of the Confederation, and report to the several States such measures as would, when adopted by all, enable Congress effectually to provide for the trade of the whole country. They should "consider how far a uniform system in their commercial relations may be necessary to their common interest and their permanent harmony." In this form the resolution was passed, January 21, 1786,†

more the ear of the house than those whose services there exposed them to an imputable bias." — Gay, *Life of Madison*, p. 60.

* Hunt's ed. of Madison's *Writings*, vol. ii., p. 218.

† The resolution was as follows: "Resolved, That Edmund Randolph, James Madison, Jr., Walter Jones, St. George Tucker, Meriweather Smith, David Ross, William Renald, and George Mason, Esquires, be appointed commissioners, who, or any five of whom, shall meet such commissioners as may be appointed by the other States in the Union, at a time and place to be agreed on, to take into consideration the trade of the United States; to consider how far a uniform system in their commercial regulations may be necessary to their common interest and their permanent harmony; and to report to the several States such an act relative to this great object as, when unanimously ratified by them, will enable the United States in Congress assembled effectually to provide for the same; that the said commissioners shall immediately transmit to the several states, copies of the preceding resolution, with a circular letter respecting their commerce

and seven commissioners were appointed to name a place and date for the convention, which were decided as Annapolis, Md., and the second Monday in September, 1786.*

At the appointed time, two commissioners from New York, three from New Jersey, one from Pennsylvania, three from Delaware and three from Virginia† assembled at Annapolis. Georgia, South Carolina and the New England States were not represented.‡ Maryland, though she had

therein, and proposing a time and place for the meeting aforesaid." See also Rives, *Life of Madison*, vol. ii., p. 60; Madison's *Works* (Congress ed.), vol. i., pp. 216, 222-223.

* Bancroft, vol. vi. pp. 182-185; Schouler, vol. i., pp. 32-33; Hunt, *Life of Madison*, pp. 91-95; McMaster, vol. i., pp. 279-280. See also Curtis, *Constitutional History*, vol. i., p. 230 *et seq.*; Conway, *Edmund Randolph*, p. 59. Madison says that Annapolis was selected as the meeting place, because "it was thought prudent to avoid the neighborhood of Congress and the large Commercial towns, in order to disarm the adversaries to the object of insinuations of influence from either of these quarters." Letter to Jefferson, March 18, 1786, Madison's *Works* (Congress ed.), vol. i., pp. 225-226.

† Alexander Hamilton and Egbert Benson represented New York; New Jersey was represented by Abraham Clark, James Schureman, and William C. Houston; Pennsylvania, by Tench Coxe; Delaware, by John Dickinson, George Read and Richard Bassett; and Virginia, by Governor Edmund Randolph, James Madison and St. George Tucker. See also Rives, *Life of Madison*, vol. ii., pp. 98, 117, 125; Hunt, *Life of Madison*, pp. 104-106.

‡ In explaining this, Knox wrote to Washington, January 14, 1787, as follows: "You ask what prevented the Eastern States from attending the September meeting at Annapolis. It is difficult to give a precise answer to this question. Perhaps torpidity in New Hampshire, faction and beats about their paper money in Rhode Island, and jealousy in Connecticut. Massachusetts had chosen delegates to attend, who did not decline

taken the action which led to the calling of the meeting, was also unrepresented, as Madison said, "from a mistaken notion that the measure would derogate from the authority of Congress, and interfere with the Revenue System of April, 1783."* While nothing was done in regard to the particular object for which the meeting had been called, yet the deliberations of the members resulted in a report which recommended that a second convention be held at Philadelphia, and that all the States be requested to send delegates. This convention was to meet May 14, 1787, "to take into consideration the situation of the United States; to devise such further provisions as shall appear to them necessary to render the constitution of the federal government adequate to the exigencies of the Union; and to report such an act for that purpose to the United States in Congress assembled, as, when agreed to by them, and afterwards confirmed by the legislature of every State, will effectually provide for the same.† A letter was also drafted and sent to Congress submitting a copy of

this report to the States.* Though Hamilton was not a member of the committee, the address to the States was written by him.†

Congress looked rather doubtfully upon this movement. It was questionable whether the suggested changes would be constitutional unless they originated in Congress itself, and were then submitted to and adopted by the various State legislatures in accordance with the Articles of Confederation. Nevertheless, as a crisis was felt to be near, Congress gave the matter prompt attention, and during the winter a report was made upon the proposal of the Annapolis commissioners. The report met with considerable opposition, for it was somewhat uncertain as to just what course would be the wisest to adopt.‡ The recommendation of the Annapolis commissioners was differently viewed in the various sections of the country. Virginia heartily approved the scheme. A bill, prepared by a committee of seven previously appointed, was introduced in the Legislature, and on the 9th of November was passed.†

until very late, and the finding of other persons to supply their places was attended with delay, so that the convention was broken up by the time the new-chosen delegates had reached Philadelphia."—Sparks' ed. of *Washington's Writings*, vol. ix., p. 513.

* Madison's *Works* (Congress ed.), vol. i., pp. 223, 246.

† Elliot, *Debates*, vol. i., p. 118; Rives, *Life of Madison*, vol. ii., pp. 127, 135; Lodge's ed. of *Hamilton's Works*, vol. i., p. 319; Madison's letter of August, 1827, to Thomas J. Wharton, in *Madison's Works* (Congress ed.), vol. iii., p. 587.

* Bancroft, vol. vi., pp. 195-198; McMaster, pp. 389-390; Sparks, *Life of Washington*, pp. 396-397; Schouler, vol. i., pp. 33-34; Lodge, *Alexander Hamilton*, pp. 54-55; Thorpe, *Story of the Constitution*, p. 106; Fiske, *Critical Period*, p. 216 *et seq.*

† Hamilton's ed. of *Hamilton's Works*, vol. ii., pp. 336-339.

‡ Curtis, *Constitutional History*, vol. i., pp. 238-240.

|| See the *Journals of the [Virginia] House of Delegates*, November 3 and 7 and December 4, 1786. See also Elliot, *Debates*, vol. i., p. 132;

Under its provisions, Virginia in December selected seven representatives* "to meet the delegates from the other States, at Philadelphia, in the following May, and to join with them in devising and discussing all such alterations and further provisions, as may be necessary to render a Federal Constitution adequate to the exigencies of the Union." At the head of the Virginia delegation was George Washington, and upon news of his nomination, letters poured in upon him from all sections, urging his acceptance of the appointment.†

Madison was one of those who urgently requested him to attend the convention,‡ and in reply Washington said that while he had firmly decided never again to enter public life, yet he was willing to advance the interests of the country in every way possible. But at this time he was in a very unpleasant situation. He said:

"I presume you heard that I was first appointed, and have since been re-chosen President of the Society of the Cincinnati; and you may have understood also, that the triennial general meeting of this body, is to be held in Philadelphia, the first Monday in May next. Some particular reasons, combining with the peculiar situation of my private concerns, the necessity of paying

attention to them, a wish for retirement, and relaxation from public cares, and rheumatic pains, which I begin to feel very sensibly, induced me on the 31st ultimo, to address a circular letter to each state society, informing them of my intention, not to be at the next meeting, and of my desire not to be re-chosen president. The vice-president is also informed of this, that the business of the society may not be impeded by my absence. Under these circumstances, it will readily be perceived, that I could not appear at the same time and place, on any other occasion, without giving offence to a very respectable and deserving part of the community—the late officers of the American army."*

Nevertheless, as it was important that Washington attend the convention, the meeting of the Cincinnati was arranged for a week prior to the assembling of the Federal Convention, so that Washington could attend both, if he so desired.†

The action of Virginia was soon followed by similar actions in other States, and even before Congress itself had given sanction to the Federal Convention,—Massachusetts, New Jersey, Pennsylvania, Delaware, North Carolina and Georgia had appointed delegates.‡ The action of Massachusetts gave the advocates of the Convention great joy, for in no other State had the anti-federal feeling been so bitter and so strong. In 1786 that State had even proposed to go out of the Union and to form a

Rives, *Life of Madison*, vol. ii., p. 132; Madison's *Works* (Congress ed.), vol. iii., p. 587.

* Washington, Patrick Henry, Edmund Randolph, John Blair, James Madison, George Mason and George Wythe. Henry, however, refused to go. See Tyler, *Life of Patrick Henry*, p. 277; Henry, *Life of Patrick Henry*, vol. ii., pp. 310–311.

† Brooks, *Life of Knox*, p. 201.

‡ See his letters in Madison's *Works* (Congress ed.), vol. i., pp. 263–265, 267.

* See Sparks' ed. of Washington's *Writings*, vol. ix., p. 212. See also his letters to Randolph, quoted in Conway, *Edmund Randolph*, pp. 62, 64, 66–67.

† Sparks, vol. ix., pp. 219, 243, note; Sparks, *Life of Washington*, pp. 397–400; Lodge, *George Washington*, vol. ii., pp. 29–31.

‡ Their instructions will be found in Elliot, *Debates*, vol. i., p. 125 *et seq.*

Confederation of the New England States.* Shays's rebellion had been the chief agency in effecting this change.

None seemed to care what action Rhode Island took or if she acted at all, for she was scarcely considered a member of the Union. Her name was a by-word and a reproach; she was nicknamed "Rogue's Island"; and her inhabitants were spoken of as "Know Ye" people, and her acts as "Know Ye" measures.† It was no disappointment, therefore, that she never sent delegates to the Convention.‡ Connecticut debated the question for some time and did not act in the affirmative until May 12, two days before the Convention was to open.¶ There was a little better feeling in the Middle States. New Jersey and Pennsylvania warmly approved of the Convention, and Delaware soon followed. New York held back for some time, but two days after having thrown out the impost measure (February 17) as previously related, Hamilton moved in the Assembly that the New York delegates in Congress be instructed to introduce a resolution recommending that the States send commissioners to Philadelphia. This motion was passed by both houses of

the Legislature. The roundabout method by which New York thus assented to the Convention was chiefly the result of the argument that Congress itself had not yet approved the Convention, and to appoint delegates before Congress had considered the Annapolis report was, it was agreed, unseemingly hasty, and might possibly be useless if Congress did not take favorable action.*

Congress had set aside February 21, 1787, as the day on which the report of the Annapolis convention should be considered. On that day one of the New York delegates moved that consideration of the Annapolis communication be postponed in order to substitute the resolution of his State, but this motion was defeated by a vote of eight States against three. Another similar motion by Nathaniel Dane, of Massachusetts, was also defeated. Congress thereupon, on February 21, passed the following resolution:

"Whereas, there is provision in the Articles of Confederation and Perpetual Union for making alterations therein, by the assent of a Congress of the United States, and of the legislatures of the several states; and *whereas*, experience hath evinced that there are defects in the present Confederation, as a means to remedy which several of the states, and particularly the State of New York, by express instructions to their delegates in Congress, have suggested a convention for the purpose expressed in the following Resolution; and such convention appearing to be the most probable means of establishing in these states a firm national government;

Resolved, That in the opinion of Congress it is expedient that on the second Monday in May next,

* McMaster, *United States*, vol. i., p. 391.

† Riehman, *Rhode Island*, p. 252; Bates, *Rhode Island and the Formation of the Union*, pp. 130-131; McMaster, *United States*, p. 392. Madison said that she could be "relied on for nothing that is good."—Madison's *Works*, vol. i., p. 275.

‡ Bates, pp. 151-152.

¶ McMaster, pp. 394-397.

* Curtis, *Constitutional History*, vol. i., pp. 242-243.

a convention of delegates, who shall have been appointed by the several states, be held at Philadelphia, for the sole and express purpose of revising the Articles of Confederation, and reporting to Congress and the several legislatures such alterations and provisions therein as shall, when agreed to in Congress and confirmed by the states, render the Federal Constitution adequate to the exigencies of government, and the preservation of the Union.” *

Undoubtedly it was only the stern necessity of the case (of providing against a renewal of such affairs as the Shays’ rebellion, etc., of losing the right of navigating the Mississippi, and of preventing further unrest in the western settlements) that brought Congress to a state of mind where they considered the convention not only imperative, but as actually the only method of preserving the Union. That it “should forego the right of originating changes in the system of government; that it should advise the states to confer that power upon another Assembly, that it should sanction a general revision of the Federal Constitution, and the express declaration of its present inadequacy, were all preliminaries essential to a successful reform.” † It still remained a fact that Congress, no matter how weak and inefficient it was, was still the only body which could legitimately take action on such a matter, and to have despised it, and cast off all control, would have been attended with dangers of the most serious nature.

“But the reason for not moving

* *Journals of Congress*, vol. xii., p. 17.

† Curtis, *Constitutional History*, vol. i., p. 245.

the revision of the system of government by Congress itself was one that could not be publicly stated. It was, that the highest civil talent of the country was not there. The men to whom the American people had been accustomed to look in great emergencies—the men who were called into the Convention, and whose power and wisdom were signally displayed in its deliberations—were then engaged in other spheres of public life or had retired to the repose which they had earned in the great struggle with England. Had the attempt been made by Congress itself to form a Constitution for the acceptance of the states, the controlling influence and wisdom of Washington, Franklin’s wide experience and deep sagacity, the unrivalled capacities of Hamilton, the brilliant powers of Gouverneur Morris, Pinckney’s fertility, and Randolph’s eloquence, with all the power of their eminent colleagues and all the strength of principle and of character which they brought to the Convention, would have been withheld from the effort. One very important man, it is true, was still there. Madison was in Congress; and Madison’s part in the framing of the Constitution was eminently conspicuous and useful. But without the concentration of talent which the Convention drew together, respecting every interest and every part of the Union, nothing could have been presented to the states, by the Congress of 1787, which would have commanded their assent.

The Constitution owed as much for its acceptance, to the weight of character of its framers, as it did to their wisdom and ability, for the intrinsic merits which that weight of character enforced.”*

It was a fortunate thing, however, that Congress did not attempt to define the powers of the Convention, for had the nature of its discussions been curtailed by any such limitation, probably the Federal Constitution would not have been formulated at that time. As it was, and as many of the members of the Convention complained, that body went far beyond the original intention, at least as that intention was expressed in the call for delegates, and the result was the formation of our present Constitution.

It can hardly be doubted that the action of the several States regarding this Convention was hastened by the alarming condition of affairs during the latter part of 1786, and the beginning of 1787, in the New England States, and particularly in Massachusetts. This State was passing through a period of gloom, chiefly due to the evil consequences of the war, for while the crops had been good, the farmers complained because they could not sell their produce to obtain money with which to buy food, clothing, etc. Money was becoming more and more scarce; the debts due

from individuals to each other amounted to about £1,300,000 sterling; the soldiers were creditors of the State to the extent of £250,000 sterling; and the State's portion of the Federal debt was £1,500,000, a total burden of more than £3,000,000.* In order to pay the State's portion of the Federal debt, the law provided that one third of it should be raised by taxes on the ratable polls, but as the ratable polls were less than 90,000 in number, it was readily seen that some other means must be devised. The state of manufactures, agriculture, and commerce was deplorable,† but certain classes asserted that commerce and not agriculture should bear the load, for they claimed the merchants had grown rich upon their gains from foreign traffic (especially those merchants who dealt in foreign articles of luxury and trumpery, for which there was now a large demand). American exports amounted to nothing at this time, and in order to satisfy the demands of importation, coin must be had. As America had not as yet developed any gold mines, it was seen that either commerce must be stopped in order to prevent the outflow of specie, or paper must be issued to take the place of the coin sent abroad. In addition to the cur-

* McMaster, *United States*, vol. i., p. 300; George R. Minot, *History of the Insurrections in Massachusetts in the Year 1786, and the Rebellion Consequent Thereon*, p. 6; Fiske, *Critical Period*, p. 177 et seq.

† Curtis, *Constitutional History*, vol. i., p. 180.

* Curtis, *Constitutional History*, vol. i., pp. 247-248.

rency agitation, complaints began to arise regarding the administration of justice in the State. After the war the courts were clogged with all kinds of civil suits to collect debts, mortgages, claims against Tories, etc.,* and the lawyers became overwhelmed with cases. As they always exacted a retainer and were absolutely sure of their fees, they finally became wealthy, and were roundly denounced as blood-suckers, pick-pockets, etc., even being accused of causing the burdens and distress that afflicted the State.† There was common complaint of the high salaries paid to public officials and the wasteful cost of litigation.‡

Therefore, when the Legislature met, a stormy session began. Many measures to redress the grievances of the multitude were debated and at last a bill was introduced to fix the fees of attorneys,|| to allow all persons of good character to practice before the court, and to restrain the practice of champerty, but the bill did not pass. The currency question

was then introduced, the debate centering on a petition of seven Bristol towns, for the issuing of a paper currency that should never be redeemed, but should depreciate at stated intervals until the entire issue was extinguished. This bill was thrown out by a vote of 99 to 19, as was also a bill to make real and personal estate a legal tender, which measure was lost by a vote of 89 to 35. The legislature adjourned July 8, 1786, without taking any definite steps to redress the wrongs.

The malcontents of Hampshire thereupon called a convention to meet at Hatfield, August 22, and when the convention met delegates from fifty towns were present. After forming themselves into a constitutional body, they adopted a report which detailed at great length the various measures by which they were oppressed. Their hostility was expressed most forcibly against the taxes,* the compensation promised to the army officers, and the administration of justice by the courts.† They

* Minot, *History of the Insurrections*, p. 14.

† McMaster, *United States*, vol. i., pp. 301-302; McLaughlin, *The Confederation and the Constitution*, p. 157; Curtis, *Constitutional History*, vol. i., pp. 180-181.

‡ Schouler, *United States*, vol. i., p. 36.

|| In Quincy, Mass., there was much complaint as to the general conditions of affairs, but the people expressed one particular desire—that the lawmakers “crush, or at least put a proper check * * * on that order of Gentlemen denominated Lawyers, the completion of whose modern conduct appears to us to tend rather to the destruction than the preservation of the Commonwealth.”

* Knox, however, in writing to Washington, said: “That taxes may be the ostensible cause is true, but that they are the true cause is as far remote from truth as light from darkness. The people who are the insurgents have never paid any or but very little taxes. But they see the weakness of government; they feel at once their own poverty compared with the opulent, and their own force, and they are determined to make use of the latter in order to remedy the former.” See Brooks, *Life of Knox*, p. 194.

† Fiske, *Critical Period*, p. 179. The spirit behind the rebellion is shown by the speech of one of the leaders. “My boys,” said he, “you are going to fight for liberty. If you wish to know

asked "to have emitted a bank of paper money, subject to a depreciation," which would be legal tender for the payment of all debts.* They also prepared a petition in which were incorporated a number of fantastic recommendations.

These were but the prelude to radical acts. Proceeding from inflammatory words to actions, the citizens concerned began to arm themselves, surrounded the courts in several counties, and completely obstructed the administration of justice. On the last Tuesday in August, 1786, a body of 1,500 insurgents acted in this manner at Northampton, and in September the government issued a proclamation calling upon the officers and citizens of the commonwealth to suppress these treasonable proceedings. Under the existing condition of affairs, these proclamations had little effect, and within a week a body of more than 300 insurgents surrounded the court house at Worcester, and compelled the court to adjourn.† Similar riotous proceedings took place at Concord a week later, at Taunton, Great Barrington, and at Springfield.‡ At Great Barrington a

mob broke open the jails, prevented the courts from sitting, and compelled all the judges, save one, to sign a pledge that they would not hold court until the popular grievances were redressed. Later in the year more serious outrages were committed, houses being searched, people fired upon, and numbers of the conservative and law-abiding citizens driven from town.*

From one act of violence, the malcontents soon proceeded to others and as the State itself displayed its own weakness by adopting persuasion instead of using force, the insurgents attempted to force the State to comply with its demands. In December 1,500 men were organized in the counties of Worcester and Hampshire, under the leadership of Daniel Shays, formerly a captain in the Continental army.† After the organization of this body, threats were made that arms and ammunition would be secured by force, if necessary, from the public arsenal at Springfield.‡ Secretary of War Knox was appealed to by the citizens of Massachusetts for permission to use the national arms for general defence, but this was refused.|| Knox's communication and another letter regarding

what liberty is, I will tell you. It is for every man to do what he pleases, to make other folks do as you please to have them, and to keep folks from serving the devil."—Holland, *Western Massachusetts*, vol. i., p. 296.

* Minot, *History of the Insurrections*, pp. 34-38.

† William Lincoln, *History of Worcester*, p. 134; McMaster, *United States*, vol. i., pp. 305-307.

‡ For details of which see Fiske, *Critical Period*, pp. 180-181; McMaster, vol. i., pp. 307-315.

* J. G. Holland, *History of Western Massachusetts*, vol. i., pp. 244-248; Minot, *History of the Insurrections*, pp. 44-50.

† Minot, *History of the Insurrections*, p. 82 *et seq.*

‡ See Humphrey's letter to Washington, in Sparks, *Correspondence of the Revolution*, vol. iv., pp. 147-149.

|| Brooks, *Life of Knox*, p. 196.

hostile movements of Indians in the West were referred to a committee of Congress, which in October made a secret report in which it was said: "that a dangerous insurrection has taken place, in divers parts of the State of Massachusetts, which was rapidly extending its influence; that the insurgents had already, by force of arms, suppressed the administration of justice in several counties; that though the legislature of said state was in session, yet from the circumstances attending it, it would undoubtedly defeat the object of the federal interposition, should a formal application for the same be made."* The committee said that "the aid of the federal government is necessary to stop the progress of the insurgents, that there is the greatest reason to believe, that unless speedy and effectual measures shall be taken to defeat their designs, they will possess themselves of the arsenal at Springfield, subvert the government, and not only reduce the commonwealth to a state of anarchy and confusion, but probably involve

the United States in the calamities of a civil war." The committee therefore came to the conclusion that the United States were bound to restore constitutional authority in Massachusetts, and to afford protection to public stores at Springfield. For such purposes it was recommended that a body of troops be immediately sent there. Such was the secret report. The public report, however, recommended that 1,340 troops be raised to protect the frontiers against the hostile movements of the Indians, though in reality these troops were to be used in suppressing the insurrection in Massachusetts.* Congress adopted these reports, ordered that the troops be enlisted immediately,† and to support them called upon the States to pay into the public treasury by June 1, 1787, \$530,000 in specie. The resolve also authorized a loan of \$500,000 to be immediately opened.

Washington had been greatly alarmed at the proceedings in Massa-

* *Journals of Congress*, October 30, 1786, vol. xi., p. 258. See also Gordy, *Political History of the United States*, vol. i., p. 60 *et seq.*

† In reaching this conclusion, Congress deemed it a wise thing to spread upon the secret journals a declaration that it (Congress) "would not hazard the perilous step of putting arms into the hands of men whose fidelity must in some degree depend on the faithful payment of their wages, had they not the fullest confidence * * * of the most liberal exertions of the money holders in the State of Massachusetts and the other states in filling the loans authorized by the resolve of this date."—*Secret Journals of Congress*, October 21, 1786, vol. i., p. 267 *et seq.*

* When Washington heard the news from Massachusetts he exclaimed: "What, gracious God, is man that there should be such inconsistency and perfidiousness in his conduct! It was but the other day that we were shedding our blood to obtain the constitutions under which we now live—constitutions of our own choice and making—and now we are unsheathing the sword to overturn them. The thing is so unaccountable that I hardly know how to realize it, or to persuade myself that I am not under the illusion of a dream."—Sparks' ed. of *Washington's Writings*, vol. ix., p. 221; Schouler, *United States*, vol. i., p. 36; Irving, *Life of Washington*, vol. iv., p. 524.

chusetts, and on October 31, 1786, wrote to Henry Lee as follows:

"The commotion and temper of numerous bodies in the Eastern country, present a state of things equally to be lamented and deprecated. They exhibit a melancholy verification of what our transatlantic foes have predicted, and of another thing, perhaps, which is still more to be regretted, and yet more unaccountable, that mankind, when left to themselves, are unfit for their own government. I am mortified beyond expression, when I view the clouds which have spread over the brightest morn that ever dawned upon any country. In a word, I am lost in amazement, when I behold what intrigue, the interested views of desperate characters, ignorance and jealousy of the minor part, are capable of effecting, as a scourge on the major part of our fellow-citizens of the Union; for it is hardly to be supposed, that the great body of the people, though they will not act, can be so short-sighted, or enveloped in darkness, as not to see rays of a distant sun through all this mist of intoxication and folly.

"You talk, my good sir, of employing influence to appease the present tumults in Massachusetts. I know not where that influence is to be found, nor, if attainable, that it would be a proper remedy for these disorders. INFLUENCE IS NOT GOVERNMENT. Let us have a *government*, by which our lives, liberties, and properties will be secured; or let us know the worst at once. Under these impressions, my humble opinion is, that there is a call for decision. Know precisely what the insurgents aim at. If they have *real* grievances, redress them if possible, or acknowledge the justice of them, and your inability to do it in the present moment. If they have not, employ the force of government against them at once. If this is inadequate, *all* will be convinced that the superstructure is bad, or wants support. To be more exposed in the eyes of the world, and more contemptible, is hardly possible. To delay one or the other of these expedients, is to exasperate on the one hand, or to give confidence on the other, and will add to their numbers; for, like snowballs, such bodies increase by every movement, unless there is something in the way to obstruct and crumble them before their weight is too great and irresistible.

"These are my sentiments. Precedents are dangerous things. Let the reins of government, then, be braced with a steady hand, and every violation of the Constitution be reprehended. If

defective, let it be amended, but not suffered to be trampled upon while it has an existence." *

Finding that it had become necessary to use troops, Governor James Bowdoin, of Massachusetts, determined to protect the commonwealth of Massachusetts, and early in January, 1787, 4,000 militia were ordered into service and placed under the command of General Lincoln.† A number of the prominent and wealthy men of the state financed that part of the expenses of the expedition, which the State treasury was unable to defray, the governor heading the list of those who subscribed to the sum.‡ Assembling at Boston, the troops soon got under way, and proceeded toward the scene of action.

Meanwhile, the militia of the Western counties, under General William Shepard, had assembled in the arsenal at Springfield; but before the arrival of Lincoln, they were attacked by the insurgents in an attempt to secure the supplies and ammunition in the arsenal. The insurgents were repulsed with considerable loss.|| Shortly after this event, Lincoln arrived with his militia and by a series of rapid movements, endeavored to bring the insurgent army into action. For some time the latter successfully

* Sparks' ed. of *Washington's Writings*, vol. ix., p. 204.

† Schouler, *United States*, vol. i., p. 37; McMaster, *United States*, vol. i., pp. 316-318.

‡ Minot, *History of the Insurrections*, pp. 93-94; McMaster, p. 319.

|| McLaughlin, *The Confederation and the Constitution*, p. 163; McMaster, *United States*, vol. i., pp. 320-322.

eluded pursuit, and after refusing every proposition to lay down their arms, endeavored to secure a suspension of hostilities until an accommodation could be negotiated with the Legislature.* Lincoln says: "Applications were also made by committees and select men of the several towns in the counties of Worcester and Hampshire, praying the effusion of blood might be avoided, while the real design of these applications was supposed to be, to stay our operations, until a new court should be elected. They had no doubt, if they could keep up their influence until another choice of the legislature and of the executive, that matters might be moulded in general court to their wishes. To avoid this, was the duty of government."

Lincoln, however, refused all overtures of such a nature, and called upon the towns to aid him in apprehending all abettors of those who should persist in their treason. But he continued to press the insurgents without intermission, and early in February, with a slight loss on both sides, succeeded in dispersing them, driving their leaders out of the State, and entirely quelling the rebellion.* But the people failed to reward the man who had done so much to save and redeem the State. At the next election Bowdoin was badly defeated, and John Hancock elected in his place. Furthermore, the rebels themselves were not punished. The fourteen convicted were pardoned by Hancock, and even Shays was allowed to retire into obscurity.†

APPENDIX TO CHAPTER V.

I. HANNIS TAYLOR ON PELATIAH WEBSTER'S PLAN OF GOVERNMENT.‡

That invention of a new type of federal government, embodying, as Tocqueville said, "a wholly novel theory," is so unique that it can no more be confounded with any preceding federal government than a modern mogul engine can be confounded with an ancient stage coach. Did that wonderful invention, which has produced such momentous consequences, have a personal author, like all other inventions; or was it revealed at the same moment, and in some mysterious way, to a large number of persons, thinking and acting in isolation? Upon that humanely impossible or miraculous theory historians of our existing constitutions have attempted to explain the origin of the unique and prearranged plan of federal government presented to the Convention which sat at Philadelphia during the 125 days that intervened between May 14 and September 17, 1787.

After deducting recesses and holidays, there could not have been more than 90 working days. No one has ever contended, or can ever contend, that the great invention in question was made *after the Convention met*, for the simple and conclusive reason that it was the basis of all the "plans" save one, carefully constructed beforehand, out of which the Constitution was evolved. Five and only five "plans," all prearranged, were submitted

* See also Rivers, *Captain Shays; New England Magazine*, new series, vol. xxiii., no. v. (January, 1901); McMaster, *United States*, vol. i., pp. 325-330.

† McLaughlin, *The Confederation and the Constitution*, p. 164; Fiske, *Critical Period*, pp. 183-184.

‡ Quoted with the author's kind permission from his memorial to Congress. *Senate Document* 461, 60th Congress, 1st session, pp. 6-8, 13-20.

* McMaster, pp. 322-325.

to the Convention, viz, the Virginia plan, the Charles Pinckney plan, the Connecticut plan, the Alexander Hamilton plan, and the New Jersey plan. As the last only proposed a revision of the Articles of Confederation it may be dismissed from consideration. There were but four plans in which proposals for a new system of federal government were embodied, each resting upon the "wholly novel theory" which has produced "the most momentous consequences."

A distinguished specialist has well said that "the Virginia plan became the rock-bed of the Constitution.* That plan, which embodied every phase of the great invention, was drafted by Madison, who began his preparation for the labors of the Convention at least a year before it met.† In December, 1786, we find him in active correspondence with Jefferson, then at Paris, as to the Virginia plan.‡ The marvel is that the historians who are supposed to have explored the sources have never taken the pains to ask this simple and inevitable question—*From what common source did the draftsmen of the four plans draw the path-breaking invention which was the foundation of all of them?* Let it be said to the honor of those draftsmen that no one of them ever claimed to be the author of that invention. Neither Madison, nor Charles Pinckney, nor Sherman, nor Ellsworth, nor Hamilton, nor any of their biographers, so far as the writer is informed, ever set up such a claim in behalf of any one of them. The answer to "the simple and inevitable question" just propounded is this: The common source from which the draftsmen of the four plans drew the path-breaking invention underlying them all was "A dissertation on the Political Union and Constitution of the thirteen United States of North America," published at Philadelphia by Pelatiah Webster, February 16, 1783, and there republished by him with copious notes in 1791, and herein reproduced for the first time after the lapse of 116 years. In that immortal paper, whose lightest words are weighty, he gave to the world, as *his personal contribution to the science of government, and as an entirety worked out in great detail* the "wholly novel theory" of federal government upon which reposes the existing Constitution of the United States.

* Meigs, *The Growth of the Constitution in the Federal Convention of 1787*, p. 17.

† See Rives' *Life and Times of Madison*, vol. ii., p. 208, "Preparations of Madison for labors of Federal Convention."

‡ See letter of Jefferson to Madison of December 16, 1786, in *Jefferson's Correspondence*, by T. J. Randolph, vol. ii., pp. 64, 65.

Prior to the date in question no single element of that theory had ever been propounded by anyone. In a note appended to the republication of 1791 the great inventor gives the following account of the circumstances under which the invention was made: "At the time when this Dissertation was written (February 16, 1783) the defects and insufficiency of the Old Federal Constitution were universally felt and acknowledged; it was manifest, not only that the internal police, justice, security, and peace of the States could never be preserved under it, but the finances and public credit would necessarily become so embarrassed, precarious, and void of support, that no public movement, which depended on the revenue, could be managed with any effectual certainty: but tho' the public mind was under full conviction of all these mischiefs, and was contemplating a remedy, YET THE PUBLIC IDEAS WERE NOT AT ALL CONCENTRATED, MUCH LESS ARRANGED INTO ANY NEW SYSTEM OR FORM OF GOVERNMENT, which would obviate these evils. Under these circumstances, I offered this Dissertation to the public: how far the principles of it were adopted or rejected in the New Constitution, which was four years afterwards (Sept. 17, 1787) formed by the General Convention, and since ratified by all the States, is obvious to every one."

* * * * *

The most scientific writer upon finance during the Revolutionary War was Pelatiah Webster, whose essays on that subject fill a volume.* He was born at Lebanon, Connecticut, in 1725, and graduated at Yale College in 1746. In 1755 he removed to Philadelphia, where he became a prosperous merchant, and in due time an ardent supporter of the patriot cause in the War of the Revolution, aiding with pen and purse. He was captured by the British, and, on account of his ardor was imprisoned for four months. As early as October, 1776, he began to write on the currency, and in 1779 he commenced the publication at Philadelphia of a series of "Essays on Free Trade and Finance." He was sufficiently important as a political economist to be consulted by the Continental Congress as to the resources of the country. His financial studies soon convinced him that no stable fiscal system could be established until the then existing federal government was wiped out and superseded by one endowed with independent taxing power. Therefore, as early as 1781, in one of his financial essays, he made the first public call for the "Con-

* The second edition of 1791 was "Printed and sold by Joseph Cruikshank, No. 91 High Street," Philadelphia.

tinental Convention," referred to by Madison, to be armed with power to devise an adequate system of federal government. Having thus taken the first step, he set himself to work to formulate in advance such an adequate system as the Convention should adopt, whenever it might meet. In the great tract published at Philadelphia, February 16, 1783, we have photographed for us the workings of his mind as he moved along the paths never trod before. He sounded the keynote when he declared: "They (the supreme power) *must therefore of necessity be vested with a power of taxation.* I know this is a most important and weighty truth, a dreadful engine of oppression, tyranny, and injury, when ill used; yet, *from the necessity of the case, it must be admitted.*

"For to give a supreme authority a power of making *contracts*, without any power of *payment*; of appointing *officers*, civil and military, without money to *pay* them; power to *build ships*, without *any money* to do it with; a power of *emitting money*, without any power to *redeem* it; or of *borrowing money*, without any power to make payment, etc.—such solecisms in government are so nugatory and absurd that I really think to offer further argument on the subject would be to insult the understanding of my readers. To make all these payments dependent on the votes of *thirteen popular assemblies*, who will undertake to judge of the propriety of every contract and every occasion of money, and *grant or withhold* supplies according to their opinion, whilst at the same time the operation of the whole may be stopped by the vote of a single one of them, is absurd." Thus Pelatiah Webster proposed the existing system of federal taxation, then entirely new, to the world; thus he proposed that the ancient system of requisitions, resting on the taxing power of the states, should be superseded by a system of federal or national taxation extending to every citizen, directly or indirectly. Instead of the lifeless system of absurdity embodied in the Articles of Confederation, he proposed to substitute a self-executing and self-sustaining national system, based on the following propositions, stated in his own language: "*The supreme authority of any State must have power enough to affect the ends of its appointment, otherwise these ends cannot be answered and effectually secured.* * * * I begin with my first and great principle, viz, *That the Constitution must vest powers in every department sufficient to secure and make effectual the ends of it.* The supreme authority must have

the power of *making war and peace*—of *appointing armics and navies*—of appointing *officers both civil and military*—of making *contracts*—of *emitting, coining, and borrowing money*—of *regulating trade*—of making *treaties with foreign powers*—of establishing *post-offices*—and, in short, of doing *everything* which the *well-being* of the Commonwealth may require, and which is not compatible to any particular State, all of which require money, and cannot possibly be made effectual without it. * * * This tax an be laid by the supreme authority much more conveniently than by the particular Assemblies, and would in no case be subject to their *repeals or modifications*; and of course the public credit would never be dependent on, or liable to bankruptcy by the *humors* of, any particular assembly. * * * The delegates which are to form that august body, which are to hold and exercise the supreme authority, ought to be *appointed by the States in any manner they please.*" In formulating his conclusions as to the supremacy of federal law acting directly on all citizens, he said: "(1) *No laws of any State whatever which do not carry in them a force which extends to their effectual and final execution can afford a certain or sufficient security to the subject*—this is too plain to need proof; (2) *Laws or ordinances of any kind (especially of august bodies of high dignity and consequence), which fail of execution, are much worse than none*; they weaken the government; expose it to contempt. * * * A government which is but *half executed*, or whose operations may all be stopped by a single vote is the most dangerous of all institutions. * * *

"Further, I propose that if the *execution of any act or order of the supreme authority shall be opposed by force in any of the States* (which God forbid!) it shall be lawful for Congress to send into such State a *sufficient force to suppress it.* On the whole, I take it that the very *existence and use of our union* effectually depends on the *full energy and final effect* of the laws made to support it; and therefore I *sacrifice all other considerations to this energy and effect*; and if our Union is not worth this purchase we must give it up—the nature of the thing does not admit any other alternative." In these ringing terms was announced the path-breaking invention of a supreme and self-executing federal government operating directly upon the citizen; an invention for which the world had been waiting for two thousand years; an invention of which no trace or hint is to be found in the constitutions

of any of the Teutonic Leagues, in the Articles of Confederation, or in the prior utterance of any other man.

Having thus defined his fundamental concept of a federal government operating directly on the citizen, the great one boldly accepted the inevitable corollary that such a government must be strictly organized and equipped with machinery adequate to its ends—with the usual branches, executive, legislative, and judicial; with its army, its navy, its civil service, and all the usual apparatus of a government, all bearing directly upon every citizen of the Union without any reference to the government of the several States. No such federal government, ancient or modern, had ever existed. As Montesquien was the first to point out, the division of state powers into executive, legislative, and judicial, originated in that single state in Britain we call England.* From that single state the principle passed into the single States of the American Union;† Pelatiah Webster was the first to conceive of the application of the principle of the division of powers to a federal state; he was the first to propose that the federal head should be divided and then organized, as the particular ones are, into legislative, executive, and judicial. More than three years later Jefferson endorsed that idea by commending it to Madison‡. Having thus made his second great invention, Webster proceeded to explain how the three departments, executive, legislative, and judicial, should be organized. His idea was that the executive power should be vested in a council of ministers to be grouped around a President elected by Congress. On that subject he said: "These ministers will of course have the best information, and most perfect knowledge, of the state of the Nation, as far as it relates to their several departments, and will of course be able to give the best information to Congress, in what manner any bill proposed will affect the public interest in their several departments, which will nearly comprehend the whole. The *Financier* manages the whole subject of the revenues and expenditures; the *Secretary of State* takes knowledge of the general policy and internal government; the *Minister of War* presides in the whole business of war and defence; and the *Minister of Foreign Affairs* regards the whole state of the Nation, as it stands related to, or connected with, all foreign powers.

* * * I would further propose, that the aforesaid

great ministers of state shall compose a Council of State, to whose number Congress may add three others, viz: one from New England, one from the Middle States and one from the Southern States, one of which to be appointed President by Congress." To the organization of the legislative department Webster gave elaborate consideration. Just as no prior federal government had ever been divided into three departments, so no prior federal legislature had ever been divided into two houses.

The one-chamber body represented by the Continental Congress was the type of every other federal assembly that had ever preceded it. As stated heretofore the path-breaker, looking to the English bicameral system as it had appeared in the several States, proposed "That the Congress shall consist of two chambers, an upper and lower house, or senate and commons, with the concurrence of both necessary to every act; and that every State send one or more delegates to each house: this will subject every act to two discussions before two distinct chambers of men equally qualified for the debate, equally masters of the subject, and of equal authority in the decision." Citizens of the United States, to whom such a division now seems a matter of course, should remember that when Webster proposed it, it was an unprecedented novelty in the history of the world, so far as federal legislatures are concerned. After an elaborate discussion of the qualifications of members of Congress, in which he sharply assailed the then existing rule forbidding their reelection, he proceeded to define a part of the original jurisdiction of the Supreme Court of the United States by saying "that the supreme authority should be vested with powers to terminate and finally decide controversies arising between different States." He also said "To these I would add judges of law and chancery." Thus the entire federal judicial system was distinctly outlined. Above all he was careful to define the reserved powers of the States. On that subject he said: "I propose further, that the powers of Congress, and all the other departments acting under them, shall all be restricted to such matters only of general necessity and utility to all the States, as cannot come within the jurisdiction of any particular State, or to which the authority of any particular State is not competent: so that each particular State shall enjoy all sovereignty and supreme authority to all intents and purposes, excepting only those high authorities and powers by them delegated to Congress, for the purposes of the general union." In that passage we have the first draft, and a very complete one, of the

* *Spirit of Laws*, bk. xi. ch. 6.

† *Federalist*, xlvii.

‡ In a letter written from Paris, December 16, 1786.

Tenth Amendment.* So it is a matter of documentary evidence that every element that entered into the "wholly novel theory, which may be considered a great discovery in modern political science," and which differentiates our second federal constitution of 1789 from every other that preceded it, was *the deliberate invention of Pelatiah Webster*, who announced to the world that theory, *as an entirety*, in his epoch-making paper of February 16, 1783. Prior to that date no federal government had ever existed (1) that operated directly on the individual citizen; (2) no federal government had ever been divided into three departments, executive, legislative, and judicial; (3) no federal legislature had ever been divided into an upper and lower house. There is no record, there is not even a claim that, prior to that date, any human being had ever propounded anyone of those principles in connection with a federal government. The great inventor was so conscious at the time of the magnitude of his undertaking that he exclaimed as he wrote:

"May Almighty wisdom direct my pen in this arduous discussion." In conclusion he said: "This vast subject lies with mighty weight on my mind, and I have bestowed on it my utmost attention, and here offer the public the best thoughts and sentiments I am master of. * * * I have not the vanity to imagine that my sentiments may be adopted; I shall have all the reward I wish or expect if my Dissertation shall throw any light on the great subject, shall excite an emulation of inquiry, and animate some abler

genius to form a plan of greater perfection, less objectionable, and more useful." In his republication of 1791 he described perfectly the circumstances under which the great invention of February 16, 1783, was made, when he said that, "the public ideas were not at all concentrated, much less arranged into any new system or form of government, which would obviate these evils. Under these circumstances I offered this Dissertation to the public." In that Dissertation, Pelatiah Webster presented, as a free gift to the great country that has neglected and forgotten him, the "new system or form of government" which passed, *through the four "plans" * offered in the Federal Convention of 1787* into the existing Constitution of the United States. Certainly no more "wonderful work was ever struck off at a given time by the brain and purpose of man." The outcome of that work was a novel and unique creation operating directly on the people, and not upon the States as corporations. The State governments are not subject to the central government. The people are subject to both governments. The new creation is in no respect federal in its operation, although it is in some respects federal in its organization. No one of the three basic principles constituting the great invention was seriously questioned in the Convention. Its mighty and immortal task involved only their adaptation to very difficult and complex political conditions. The inventor of the plan stands to the members of the Convention as an architect stands to master builders.

II. THE EPOCH-MAKING DOCUMENT OF FEBRUARY 16, 1783, IN WHICH IS EMBODIED THE FIRST DRAFT OF THE EXISTING CONSTITUTION OF THE UNITED STATES.†

A Dissertation on the Political Union and Constitution of the Thirteen United States of North America, which is necessary to their Preservation and Happiness; humbly offered to the Public. (First published in Philadelphia.)

I. The supreme authority of any State must have power enough to effect the ends of its appointment, otherwise these ends cannot be answered, and effectually secured; at best they are precarious.—But at the same time,

II. The supreme authority ought to be so limited and checked, if possible, as to prevent the abuse of power, or the exercise of powers that are

not necessary to the ends of its appointment, but hurtful and oppressive to the subject; but to limit a supreme authority so far as to diminish its dignity, or lessen its power of doing good, would be to destroy or at least to corrupt it, and render it ineffectual to its ends.

* It provides that "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people."

†From *Senate Document 461*, 60th Congress, 1st session, pp. 23–53. It is given also in Hannis Taylor, *The Origin and Growth of the American Constitution*, app. xi. (Houghton Mifflin Co., 1911).

* At a later time a grave controversy arose as to "the singularly minute coincidences between the draft of a Federal government communicated by Mr. Charles Pinckney of South Carolina, to Mr. Adams, Secretary of State," the Virginia plan, and the Constitution as finally adopted. Every explanation was given of "the singularly minute coincidences," except the plain and obvious one—the four plans out of which the Constitution arose were taken from a common source. For a statement of the controversy in question see *Rives' Life and Times of Madison*, vol. ii, pp. 353–357.

III. A number of sovereign States uniting into one Commonwealth, and appointing a supreme power to manage the affairs of the Union, do necessarily and unavoidably part with and transfer over to such supreme power, so much of their own sovereignty as is necessary to render the ends of the union effectual, otherwise their confederation will be an union without bands of union, like a cask without hoops, that may and probably will fall to pieces, as soon as it is put to any exercise which requires strength.

In like manner, every member of civil society parts with many of his natural rights, that he may enjoy the rest in greater security under the protection of society.

The Union of the Thirteen States of America is of mighty consequence to the security, sovereignty, and even liberty of each of them, and of all the individuals who compose them; united under a natural, well adjusted, and effectual Constitution, they are a strong, rich, growing power, with great resources and means of defence, which no foreign power will easily attempt to invade or insult; they may easily command respect.

As their exports are mostly either raw materials or provisions, and their imports mostly finished goods, their trade becomes a capital object with every manufacturing nation of Europe, and all the southern colonies of America; their friendship and trade will of course be courted, and each power in amity with them will contribute to their security.

Their union is of great moment in another respect; they thereby form a superintending power among themselves, that can moderate and terminate disputes that may arise between different States, restrain intestine violence, and prevent any recourse to the dreadful decision of the sword.

I do not mean here to go into a detail of all the advantages of our union; they offer themselves on every view, and are important enough to engage every honest, prudent mind, to secure and establish that union by every possible method, that we may enjoy the full benefit of it, and be rendered happy and safe under the protection it affords.

This union, however important, cannot be supported without a Constitution founded on principles of natural truth, fitness, and utility. If there is one article wrong in such Constitution, it will discover itself in practice, by its baleful operation, and destroy or at least injure the union.

Many nations have been ruined by the errors of their political constitutions. Such errors first introduce wrongs and injuries, which soon breed

discontents, which gradually work up into mortal hatred and resentments; hence inveterate parties are formed, which of course make the whole community a house divided against itself, which soon falls either a prey to some enemies without, who watch to devour them, or else crumble into their original constituent parts, and lose all respectability, strength, and security.

It is as physically impossible to secure to civil society, good cement of union, duration, and security without a Constitution founded on principles of natural fitness and right, as to raise timbers into a strong, compact building, which have not been framed upon true geometric principles; for if you cut one beam a foot too long or too short, not all the authority and all the force of all the carpenters can ever get it into its place, and make it fit with proper symmetry there.

As the fate then of all governments depends much upon their political constitutions, they become an object of mighty moment to the happiness and well-being of society; and as the framing of such a Constitution requires great knowledge of the rights of men and societies, as well as of the interests, circumstances, and even prejudices of the several parts of the community or commonwealth, for which it is intended; it becomes a very complex subject, and of course requires great steadiness and comprehension of thought, as well as great knowledge of men and things, to do it properly. I shall, however, attempt it with my best abilities, and hope from the candor of the public to escape censure, if I cannot merit praise.

I begin with my first and great principle, viz: That the Constitution must vest powers in every department sufficient to secure and make effectual the ends of it. The supreme authority must have the power of making war and peace — of appointing armies and navies — of appointing officers both civil and military — of making contracts — of emitting, coining, and borrowing money — of regulating trade — of making treaties with foreign powers — of establishing post-offices — and in short of doing everything which the well-being of the Commonwealth may require, and which is not compatible to any particular State, all of which require money, and cannot possibly be made effectual without it.

They must therefore of necessity be vested with power of taxation. I know this is a most important and weighty truth, a dreadful engine of oppression, tyranny, and injury, when ill used; yet, from the necessity of the case, it must be admitted.

For to give a supreme authority a power of making contracts, without any power of payment — of appointing officers civil and military, without money to pay them — a power to build ships, without any money to do it with — a power of emitting money, without any power to redeem it — or of borrowing money, without any power to make payment, etc., etc. — such solecisms in government are so nugatory and absurd, that I really think to offer further argument on the subject, would be to insult the understanding of my readers.

To make all these payments dependent on the votes of thirteen popular assemblies, who will undertake to judge of the propriety of every contract and every occasion of money, and grant or withhold supplies, according to their opinion, whilst at the same time the operations of the whole may be stopped by the vote of a single one of them, is absurd; for this renders all supplies so precarious and the public credit so extremely uncertain, as must in its nature render all efforts in war, and all regular administration in peace, utterly impracticable, as well as most pointedly ridiculous. Is there a man to be found who would lend money, or render personal services, or make contracts on such precarious security? Of this we have a proof of fact, the strongest of all proofs, a fatal experience, the surest tho' severest of all demonstration, which renders all other proof or argument on this subject quite unnecessary.

The present broken state of our finances — public debts and bankruptcies — enormous and ridiculous depreciation of public securities — with the total annihilation of our public credit — prove beyond all contradiction the vanity of all recourse to the federal Assemblies of the States. The recent instance of the duty of 5 per cent on imported goods, struck dead, and the bankruptcies which ensued on the single vote of Rhode Island, affords another proof of what it is certain may be done again in like circumstances.

I have another reason why a power of taxation or of raising money, ought to be vested in the supreme authority of our commonwealth, viz, the monies necessary for the public ought to be raised by a duty imposed on imported goods, not a bare 5 per cent or any other per cent on all imported goods indiscriminately, but a duty much heavier on all articles of luxury or mere ornament, and which are consumed principally by the rich or prodigal part of the community, such as silks of all sorts, muslins, cambricks, lawns, superfine cloths, spirits, wines, etc., etc.

Such an impost would ease the husbandman, the mechanic, and the poor; would have all the practical effects of a sumptuary law; would mend the economy, and increase the industry, of the community; would be collected without the shocking circumstances of collectors and their warrants; and make the quantity of tax paid, always depend on the choice of the person who pays it.

This tax can be laid by the supreme authority much more conveniently than by the particular Assemblies, and would in no case be subject to their repeals or modifications; and of course the public credit would never be dependent on, or liable to bankruptcy by the humors of any particular Assembly. In an Essay on Finance, which I design soon to offer to the public, this subject will be treated more fully. (See my Sixth Essay on Free Trade and Finance, p. 229.)

The delegates which are to form that august body, which are to hold and exercise the supreme authority, ought to be appointed by the States in any manner they please; in which they should not be limited by any restriction; their own dignity and the weight they will hold in the great public councils, will always depend on the abilities of the persons they appoint to represent them, there; and if they are wise enough to choose men of sufficient abilities, and respectable characters, men of sound sense, extensive knowledge, gravity, and integrity, they will reap the honor and advantage of such wisdom.

But if they are fools enough to appoint men of trifling or vile characters, of mean abilities, faulty morals, or despicable ignorance, they must reap the fruits of such folly, and content themselves to have no weight, dignity, or esteem in the public councils; and, what is more to be lamented by the Commonwealth, to do no good there.

I have no objection to the States electing and recalling their delegates as often as they please, but think it hard and very injurious both to them and the Commonwealth that they should be obliged to discontinue them after three years' service, if they find them on that trial to be men of sufficient integrity and abilities; a man of that experience is certainly much more qualified to serve in the place, than a new member of equal good character can be; experience makes perfect in every kind of business — old, experienced statesmen, of tried and approved integrity and abilities, are a great blessing to a State — they acquire great authority and esteem as well as wisdom, and very much contribute to keep the system of government in good and salutary order; and this furnishes the strongest reason why they should be continued in the service, on Plato's great

maxim, that "the man best qualified to serve, ought to be appointed."

I am sorry to see a contrary maxim adopted in our American counsels; to make the highest reason that can be given for continuing a man in the public administration, assigned as a constitutional and absolute reason for turning him out, seems to me to be a solecism of a piece with many other reforms, by which we set out to surprise the world with our wisdom.

If we should adopt this maxim in the common affairs of life, it would be found inconvenient, *e. g.*, if we should make it a part of our Constitution, that a man who has served a three years' apprenticeship to the trade of a tailor or shoemaker, should be obliged to discontinue that business for the three successive years, I am of opinion the country would soon be cleared of good shoemakers and tailors.—Men are no more born statesmen than shoemakers or tailors—Experience is equally necessary to perfection in both.

It seems to me that a man's inducement to qualify himself for a public employment, and make himself master of it, must be much discouraged by this consideration, that let him take whatever pains to qualify himself in the best manner, he must be shortly turned out, and of course it would be of more consequence to him, to turn his attention to some other business, which he might adopt when his present appointment should expire; and by this means the Commonwealth is in danger of losing the zeal, industry, and shining abilities, as well as services, of their most accomplished and valuable men.

I hear that the State of Georgia has improved on this blessed principle, and limited the continuance of their governors to one year; the consequence is, they have already the ghost of departed governors stalking about in every part of their State, and growing more plenty every year; and as the price of everything is reduced by its plenty, I can suppose governors will soon be very low there.

This doctrine of rotation was first proposed by some sprightly geniuses of brilliant politics, with this cogent reason; that by introducing a rotation in the public offices, we should have a great number of men trained up to public service; but it appears to me that it will be more likely to produce many jacks at all trades, but good at none.

I think that frequent elections are a sufficient security against the continuance of men in public office whose conduct is not approved, and there can be no reason for excluding those whose conduct is approved, and who are allowed to be better

qualified than any men who can be found to supply their places.

Another great object of government, is the apportionment of burdens and benefits; for if a greater quota of burden, or a less quota of benefits than is just and right, be allotted to any State, this ill apportionment will be an everlasting source of uneasiness and discontent. In the first case, the over-burdened State will complain; in the last case, all the States, whose quota of benefit is under-rated, will be uneasy; and this is a case of such delicacy, that it cannot be safely trusted to the arbitrary opinion or judgment of any body of men however august.

Some natural principles of confessed equity, and which can be reduced to a certainty, ought, if possible, to be found and adopted; for it is of the highest moment to the Commonwealth, to obviate, and, if possible, wholly to take away, such a fruitful and common source of infinite disputes, as that of apportionment of quotas has ever proved in all States of the earth.

The value of lands may be a good rule; but the ascertainment of that value is impracticable; no assessment can be made which will not be liable to exception and debate—to adopt a good rule in anything which is impracticable, is absurd; for it is physically impossible that anything should be good for practise, which cannot be practised at all; but if the value of lands was capable of certain assessment, yet to adopt that value as a rule of apportionment of quotas, and at the same time to except from valuation large tracts of sundry States of immense value, which have all been defended by the joint arms of the whole Empire, and for the defence of which no additional quota of supply is to be demanded of those States, to whom such lands are secured by such joint efforts of the States, is in its nature unreasonable, and will open a door for great complaint.

It is plain without argument, that such States ought either to make grants to the Commonwealth of such tracts of defended territory, or sell as much of them as will pay their proper quota of defence, and pay such sums into the public treasury; and this ought to be done, let what rule of quota forever be adopted with respect to the cultivated part of the United States; for no proposition of natural right and justice can be plainer than this, that every part of valuable property which is defended, ought to contribute its quota of supply for that defence.

If then the value of cultivated lands is found to be an impracticable rule of apportionment of

quotas, we have to seek for some other, equally just and less exceptionable.

It appears to me, that the number of living souls or human persons of whatever age, sex, or condition, will afford us a rule or measure of apportionment which will forever increase and decrease with the real wealth of the States, and will of course be a perpetual rule, not capable of corruption by any circumstances of future time; which is of vast consideration in forming a constitution which is designed for perpetual duration, and, which will in its nature, be as just as to the inhabited parts of each State, as that of the value of lands, or any other that has or can be mentioned.

Land takes its value not merely from the goodness of its soil, but from innumerable other relative advantages among which the population of the country may be considered as principal; as lands in a full settled country will always (*cæteris paribus*) bring more than lands in thin settlements. On this principle, when the inhabitants of Russia, Poland, etc., sell real estates, they do not value them as we do, by the number of acres, but by the number of people who live on them.

Where any piece of land has many advantages many people will crowd there to obtain them; which will create many competitors for the purchase of it; which will of course raise the price. Where there are fewer advantages, there will be fewer competitors, and of course a less price; and these two things will forever be proportionate to each other, and of course the one will always be a sure index of the other.

The only considerable objection I have ever heard to this, is, that the quality of inhabitants differs in the different States, and it is not reasonable that the black slaves in the southern States should be estimated on a par with the white freemen in the northern States. To discuss this question fairly, I think it will be just to estimate the neat value of the labor of both; and if it shall appear that the labor of the black person produces as much neat wealth to the southern State, as the labor of the white person does to the northern State, I think it will follow plainly that they are equally useful inhabitants in point of wealth; and therefore in the case before us, should be estimated alike.

And if the amazing profits which the southern planters boast of receiving from the labor of their slaves on their plantations, are real, the southern people have greatly the advantage in this kind of estimation, and as this objection comes principally from the southward, I should suppose that the

gentlemen from that part would blush to urge it any farther.

That the supreme authority should be vested with powers to terminate and finally decide controversies arising between different States, I take it, will be universally admitted, but I humbly apprehend that an appeal from the first instance of trial ought to be admitted in causes of great moment, on the same reasons that such appeals are admitted in all the States of Europe. It is well known to all men versed in courts, that the first hearing of a cause rather gives an opening to that evidence and reason which ought to decide it, than such a full examination and thorough discussion, as should always precede a final judgment, in causes of national consequence. A detail of reasons might be added, which I deem it unnecessary to enlarge on here.

The supreme authority ought to have a power of peace and war, and forming treaties and alliances with all foreign powers; which implies a necessity of their also having sufficient powers to enforce the obedience of all subjects of the United States to such treaties and alliances; with full powers to unite the force of the States; and direct its operations in war; and to punish all transgressors in all these respects; otherwise, by the imprudence of a few, the whole Commonwealth may be embroiled with foreign powers, and the operations of war may be rendered useless, or fail much of their due effect.

All these I conceive will be easily granted, especially the latter, as the power of Congress to appoint and direct the army and navy in war, with all departments thereto belonging, and punishing delinquents in them all, is already admitted into practice in the course of the present unhappy war, in which we have been long engaged.

II. But now the great and most difficult part of this weighty subject remains to be considered, viz, how these supreme powers are to be constituted in such manner that they may be able to exercise with full force and effect, the vast authorities committed to them, for the good and wellbeing of the United States, and yet be so checked and restrained from exercising them to the injury and ruin of the States, that we may with safety trust them with a commission of such vast magnitude—and may Almighty wisdom direct my pen in this arduous discussion.

1. The men who compose this important council, must be delegated from all the States; and, of course, the hope of approbation and continuance of honors, will naturally stimulate them to act right, and to please; the dread of censure and disgrace will naturally operate as a check to

restrain them from improper behavior: but however natural and forcible these motives may be, we find by sad experience, they are not always strong enough to produce the effects we expect and wish from them.

It is to be wished that none might be appointed that were not fit and adequate to this weighty business; but a little knowledge of human nature, and a little acquaintance with the political history of mankind, will soon teach us that this is not to be expected.

The representatives appointed by popular elections are commonly not only the legal, but real, substantial representatives of their electors, *i. e.*, there will commonly be about the same proportion of grave, sound, well-qualified men, trifling, desultory men—wild or knavish schemers—and dull, ignorant fools, in the delegated assembly, as in the body of electors.

I know of no way to help this; such delegates must be admitted, as the States are pleased to send; and all that can be done is, when they get together, to make the best of them.

We will suppose then they are all met in Congress, clothed with that vast authority which is necessary to the wellbeing, and even existence, of the union, that they should be vested with; how shall we empower them to do all necessary and effectual good, and restrain them from doing hurt? To do this properly, I think we must recur to those natural motives of action, those feelings and apprehensions, which usually occur to the mind at the very time of action; for distant consequences, however weighty, are often too much disregarded.

Truth loves light, and is vindicated by it. Wrong shrouds itself in darkness, and is supported by delusion. An honest well-qualified man loves light, can bear close examination, and critical inquiry, and is best pleased when he is most thoroughly understood: a man of corrupt design, or a fool of no design, hates close examination and critical inquiry; the knavery of the one, and the ignorance of the other, are discovered by it, and they both usually grow uneasy before the investigation is half done. I do not believe that there is a more natural truth in the world, than that divine one of our Savior, "he that doth truth, cometh to the light." I would therefore recommend that mode of deliberation, which will naturally bring on the most thorough and critical discussion of the subject, previous to passing any act; and for that purpose humbly propose,

2. That the Congress shall consist of two chambers, an upper and a lower house, or senate

and commons, with the concurrence of both necessary to every act; and that every State send one or more delegates to each house: this will subject every act to two discussions before two distinct chambers of men equally qualified for the debate, equally masters of the subject, and of equal authority in the decision.

These two houses will be governed by the same natural motives and interests, *viz*, the good of the Commonwealth, and the approbation of the people. Whilst at the same time, the emulation naturally arising between them, will induce a very critical and sharp-sighted inspection into the motions of each other. Their different opinions will bring on conferences between the two houses, in which the whole subject will be exhausted in arguments pro and con, and shame will be the portion of obstinate convicted error.

Under these circumstances, a man of ignorance or evil design will be afraid to impose on the credulity, inattention, or confidence of his house, by introducing any corrupt or undigested proposition, which he knows he must be called on to defend against the severe scrutiny and poignant objections of the other house. I do not believe the many hurtful and foolish legislative acts which first or last have injured all the States on earth, have originated so much in corruption as indolence, ignorance, and a want of a full comprehension of the subject, which a full, prying and emulous discussion would tend in a great measure to remove: this naturally rouses the lazy and idle, who hate the pain of close thinking; animates the ambitious to excel in policy and argument; and excites the whole to support the dignity of their house, and vindicate their own propositions.

I am not of the opinion that bodies of elective men, which usually compose Parliaments, Diets, Assemblies, Congresses, etc., are commonly dishonest: but I believe it rarely happens that there are not designing men among them; and I think it would be much more difficult for them to unite their partisans in two houses, and corrupt or deceive them both, than to carry on their designs where there is but one unalarmed, unapprehensive house to be managed; and as there is no hope of making these bad men good, the best policy is to embarrass them, and make their work as difficult as possible.

In these assemblies are frequently to be found sanguine men, upright enough indeed, but of strong, wild projection, whose brains are always teeming with Utopian, chimerical plans, and political whims, very destructive to society. I hardly know a greater evil than to have the

supreme council of a Nation played off on such men's wires; such baseless visions at best end in darkness, and the dance, though easy and merry enough at first, rarely fails to plunge the credulous, simple followers into sloughs and bogs at last.

Nothing can tend more effectually to obviate these evils, and to mortify and cure such maggoty brains, than to see the absurdity of their projects exposed by the several arguments and keen satire which a full, emulous, and spirited discussion of the subject will naturally produce: we have had enough of these geniuses in the short course of our politics, both in our national and provincial councils, and have felt enough of their evil effects, to induce us to wish for any good method to keep ourselves clear of them in future.

The consultations and decisions of national councils are so very important, that the fate of millions depends on them, therefore no man ought to speak in such assemblies, without considering that the fate of millions hangs on his tongue, —and of course a man can have no right in such august councils to utter undigested sentiments, or indulge himself in sudden, unexamined flights of thought; his most tried and improved abilities are due to the State, who have trusted him with their most important interests.

A man must therefore be most inexcusable, who is either absent during such debates, or sleeps, or whispers, or catches flies during the argument, and just rouses when the vote is called, to give his yea or nay, to the weal or woe of a nation. Therefore it is manifestly proper, that every natural motive that can operate on his understanding, or his passions, to engage his attention and utmost efforts, should be put in practise, and that his present feelings should be raised by every motive of honor and shame, to stimulate him to every practicable degree of diligence and exertion, to be as far as possible useful in the great discussion.

I appeal to the feelings of every reader, if he would not (were he in either house) be much more strongly and naturally induced to exert his utmost abilities and attention to any question which was to pass through the ordeal of a spirited discussion of another house, than he would do, if the absolute decision depended on his own house, without any further inquiry or challenge on the subject.

As Congress will ever be composed of men delegated by the several States, it may well be supposed that they have the confidence of their

several States, and understand well the policy and present condition of them; it may also be supposed that they come with strong local attachments, and habits of thinking limited to the interests of their particular States; it may therefore be supposed they will need much information, in order to their gaining that enlargement of ideas, and great comprehension of thought, which will be necessary to enable them to think properly on that large scale, which takes into view the interests of all the States.

The greatest care and wisdom is therefore requisite to give them the best and surest information, and of that kind that may be the most safely relied on, to prevent their being deluded or prejudiced by partial representations, made by interested men who have particular views.

This information may perhaps be best made by the great ministers of state, who ought to be men of the greatest abilities and integrity; their business is confined to their several departments, and their attention engaged strongly and constantly to all the several parts of the same; the whole arrangement, method, and order of which, are formed, superintended, and managed in their offices, and all information relative to their department centre there.

These ministers will of course have the best information, and most perfect knowledge, of the state of the Nation, as far as it relates to their several departments, and will of course be able to give the best information to Congress, in what manner any bill proposed will affect the public interest in their several departments, which will nearly comprehend the whole.

The Financier manages the whole subject of revenues and expenditures—the Secretary of State takes knowledge of the general policy and internal government—the minister of war presides in the whole business of war and defense—and the minister of foreign affairs regards the whole state of the nation, as it stands related to, or connected with, all foreign powers.

I mention a Secretary of State, because all other nations have one, and I suppose we shall need one as much as they, and the multiplicity of affairs which naturally fall into his office will grow so fast, that I imagine we shall be under the necessity of appointing one.

To these I would add Judges of Law, and chancery; but I fear they will not be very soon appointed—the one supposes the existence of law, the other of equity—and when we shall be altogether convinced of the absolute necessity of the real and effectual existence of both of

these, we shall probably appoint proper heads to preside in those departments. I would therefore propose,

3. That when any bill shall pass the second reading in the house in which it originates, and before it shall be finally enacted, copies of it shall be sent to each of the said ministers of state, in being at the time, who shall give said house in writing, the fullest information in their power, and their most explicit sentiments of the operation of the said bill on the public interest, as far as relates to their respective departments, which shall be received and read in said house, and entered on their minutes, before they finally pass the bill; and when they send the bill for concurrence to the other house, they shall send therewith the said informations of the said ministers of state, which shall likewise be read in that house before their concurrence is finally passed.

I do not mean to give these great ministers of state a negative on Congress, but I mean to oblige Congress to receive their advices before they pass their bills, and that every act shall be void that is not passed with these forms; and I further propose, that either house of Congress may, if they please, admit the said ministers to be present and assist in the debates of the house, but without any right of vote in the decision.

It appears to me that if every act shall pass so many different corps of discussion before it is completed, where each of them stake their characters on the advice or vote they give, there will be all the light thrown on the case, which the nature and circumstances of it can admit, and any corrupt man will find it extremely difficult to foist in any erroneous clause whatever; and every ignorant or lazy man will find the strongest inducements to make himself master of the subject, that he may appear with some tolerable degree of character in it; and the whole will find themselves in a manner compelled, diligently and sincerely to seek for the real state of the facts, and the natural fitness and truths arising from them, *i. e.*, the whole natural principles on which the subjects depend, and which alone can endure every test, to the end that they may have not only the inward satisfaction of acting properly and usefully for the States, but also the credit and character which is or ought ever to be annexed to such a conduct.

This will give the great laws of Congress the highest probability, presumption, and means of right, fitness, and truth, that any laws whatever can have at their first enactment and will of course afford the highest reason for the confidence and

acquiescence of the States, and all their subjects, in them; and being grounded in truth and natural fitness, their operations will be easy, salutary, and satisfactory.

If experience shall discover error in any law (for practise will certainly discover such errors, if there be any) the legislature will always be able to correct them, by such repeals, amendments, or new laws as shall be found necessary; but as it is much easier to prevent mischiefs than to remedy them, all possible caution, prudence, and attention should be used, to make the laws right at first.

4. There is another body of men among us, whose business of life, and whose full and extensive intelligence, foreign and domestic, naturally make them more perfectly acquainted with the sources of our wealth, and whose particular interests are more intimately and necessarily connected with the general prosperity of the country, than any other order of men in the States. I mean the Merchants; and I could wish that Congress might have the benefit of that extensive and important information, which this body of men are very capable of laying before them.

Trade is of such essential importance to our interests, and so intimately connected with all our staples, great and small, that no sources of our wealth can flourish, and operate to the general benefit of the community, without it. Our husbandry, that great staple of our country, can never exceed our home consumption without this — it is plain at first sight, that the farmer will not toil and sweat through the year to raise great plenty of the produce of the soil, if there is no market for his produce, when he has it ready for sale, *i. e.*, if there are no merchants to buy it.

In like manner, the manufacturer will not lay out his business on any large scale, if there is no merchant to buy his fabrics when he has finished them; a vent is of the most essential importance to every manufacturing country — the merchants, therefore, become the natural negotiators of the wealth of the country, who take off the abundance, and supply the wants, of the inhabitants; — and as this negotiation is the business of their lives, and the source of their own wealth, they of course become better acquainted with both our abundance and wants, and are more interested in finding and improving the best vent for the one, and supply of the other, than any other men among us, and they have a natural interest in making both the purchase and supply as convenient to their customers as possible, that they may secure their custom, and thereby increase their own business.

It follows then, that the merchants are not only qualified to give the fullest and most important information to our supreme legislature, concerning the state of our trade—the abundance and wants—the wealth and poverty, of our people, *i. e.*, their most important interests, but are also the most likely to do it fairly and truly, and to forward with their influence, every measure which will operate to the convenience and benefit of our commerce, and oppose with their whole weight and superior knowledge of the subject, any wild schemes, which an ignorant or arbitrary legislature may attempt to introduce, to the hurt and embarrassment of our intercourse both with one another, and with foreigners.

The States of Venice and Holland have ever been governed by merchants, or at least their policy has ever been under the great influence of that sort of men. No States have been better served, as appears by their great success, the ease and happiness of their citizens, as well as the strength and riches of their Commonwealths: the one is the oldest, and the other the richest, State in the world of equal number of people—the one has maintained sundry wars with the Grand Turk—the other has withstood the power of Spain and France; and the capitals of both have long been the principal marts of the several parts of Europe in which they are situated; and the banks of both are the best supported, and in the best credit, of any banks in Europe, though their countries or territories are very small, and their inhabitants but a handful, when compared with the great States in their neighbourhood.

Merchants must, from the nature of their business, certainly understand the interests and resources of their country, the best of any men in it; and I know not of any one reason why they should be deemed less upright or patriotic, than any other rank of citizen whatever.

I therefore humbly propose, if the merchants in the several States are disposed to send delegates from their body, to meet and attend the sitting of Congress, that they shall be permitted to form a chamber of commerce, and their advice to Congress be demanded and admitted concerning all bills before Congress, as far as the same may affect the trade of the States.

I have no idea that the continent is made for Congress: I take them to be no more than the upper servants of the great political body, who are to find out things by study and inquiry as other people do; and therefore I think it necessary to place them under the best possible advantages for information, and to require them to improve all those advantages, to qualify themselves in the

best manner possible, for the wise and useful discharge of the vast trust and mighty authority reposed in them; and as I conceive the advice of the merchants to be one of the greatest sources of mercantile information, which is anywhere placed within their reach, it ought by no means to be neglected, but so husbanded and improved, that the greatest possible advantages may be derived from it.

Besides this, I have another reason why the merchants ought to be consulted; I take it to be very plain that the husbandry and manufactures of the country must be ruined, if the present rate of taxes is continued on them much longer, and of course a very great part of our revenue must arise from imposts on merchandise, which will fall directly within the merchants' sphere of business, and of course their concurrence and advice will be of the utmost consequence, not only to direct the properest mode of levying those duties but also to get them carried into quiet and peaceable execution.

No men are more conversant with the citizens, or more intimately connected with their interest, than the merchants, and therefore their weight and influence will have a mighty effect on the minds of the people. I do not recollect an instance, in which the Court of London ever rejected the remonstrances and advices of the merchants, and did not suffer severely for their pride. We have some striking instances of this in the disregarded advices and remonstrances of very many English merchants against the American war, and their fears and apprehensions we see verified, almost like prophecies by the event.

I know not why I should continue this argument any longer or indeed why I should have urged it so long, in as much as I cannot conceive that Congress or anybody else will deem it below the dignity of the supreme power to consult so important an order of men, in matters of the first consequence, which fall immediately under their notice, and in which their experience, and of course their knowledge and advice, are preferable to those of any other order of men.

Besides the benefits which Congress may receive from this institution, a chamber of commerce, composed of members from all trading towns in the States, if properly instituted and conducted, will produce very many, I might almost say, innumerable advantages of singular utility to all the States—it will give dignity, uniformity, and safety to our trade—establish the credit of the bank—secure the confidence of foreign merchants—prove in very many instances a fruitful source of improvement of our staples and mutual

intercourse — correct many abuses — pacify discontents — unite us in our interests, and thereby cement the general union of the whole Commonwealth — will relieve Congress from the pain and trouble of deciding many intricate questions of trade which they do not understand, by referring them over to this chamber, where they will be discussed by an order of men, the most competent to the business of any that can be found, and most likely to give a decision that shall be just, useful, and satisfactory.

It may be objected to all this, that the less complex and the more simple every constitution is, the nearer it comes to perfection: this argument would be very good, and afford a very forcible conclusion, if the government of men was like that of the Almighty, always founded on wisdom, knowledge and truth; but in the present imperfect state of human nature, where the best of men know but in part, and must recur to advice and information for the rest, it certainly becomes necessary to form a constitution on such principles, as will secure that information and advice in the best and surest manner possible.

It may be further objected that the forms herein proposed will embarrass the business of Congress, and make it at best slow and dilatory. As far as this form will prevent the hurrying a bill through the house without due examination, the objection itself becomes an advantage — at most these checks on the supreme authority can have no further effect than to delay or destroy a good bill, but cannot pass a bad one; and I think it much better in the main, to lose a good bill than to suffer a bad one to pass into a law. — Besides it is not to be supposed that clear, plain cases will meet with embarrassment, and it is most safe that untried, doubtful, difficult matters should pass through the gravest and fullest discussion, before the sanction of the law is given to them.

But what is to be done if the two houses grow jealous and ill-natured, and after all their information and advice, grow out of humor and insincere, and no concurrence can be obtained? I answer, sit still and do nothing until they get into a better humor: I think this is much better than to pass laws in such a temper and spirit, as the objection supposes.

It is however an ill compliment to so many grave personages, to suppose them capable of throwing aside their reason, and giving themselves up like children to the control of their passions; or, if this should happen for a moment, that it should continue any length of time, is hardly to be presumed of a body of men placed

in such high stations of dignity and importance, with the eyes of all the world upon them — but if they should, after all, be capable of this, I think it madness to set them to making laws, during such fits — it is best, when they are in no condition to do good, to keep them from doing hurt — and if they do not grow wiser in reasonable time, I know of nothing better, than to be ashamed of our old appointments, and make new ones.

But what if the country is invaded, or some other exigency happens, so pressing that the safety of the State requires an immediate resolution? I answer, what would you do if such a case should happen, where there was but one house, unbecked, but equally divided, so that a legal vote could not be obtained. The matter is certainly equally difficult and embarrassed in both cases: but in the case proposed I know of no better way than that which the Romans adopted on the like occasion, viz., that both houses meet in one chamber, and choose a dictator, who should have and exercise the whole power of both houses, till such time as they should be able to concur in displacing him, and that the whole power of the two houses should be suspended in the meantime.

5. I further propose, that no grant of money whatever shall be made, without an appropriation, and that rigid penalties (no matter how great, in my opinion the halter would be mild enough) shall be inflicted on any person, however august his station, who should give order, or vote for the payment, or actually pay one shilling of such money to any other purpose than that of its appropriation, and that no order whatever of any superior in office shall justify such payment, but every order shall express what funds it is drawn upon, and what appropriation it is to be charged to, or the order shall not be paid.

This kind of embezzlement is of so fatal a nature, that no measures or bounds are to be observed in curing it; when ministers will set forth the most specious and necessary occasions for money, and induce the people to pay it in full tale; and when they have gotten possession of it, to neglect the great objects for which it was given, and pay it, sometimes squander it away, for different purposes, oftentimes for useless, yea, hurtful ones, yea, often even to bribe and corrupt the very officers of government, to betray their trust, and contaminate the State, even in its public offices — to force people to buy their own destruction, and pay for it with their hard labor, the very sweat of their brow, is a

crime of so high a nature, that I know not any gibbet too cruel for such offenders.

6. I would further propose, that the aforesaid great ministers of state shall compose a Council of State, to whose number Congress may add three others, viz, one from New England, one from the middle States, and one from the southern States, one of which to be appointed President by Congress; to all of whom shall be committed the supreme executive authority of the States (all and singular of them ever accountable to Congress) who shall superintend all the executive departments, and appoint all executive officers, who shall ever be accountable to, and removable for just cause by, them or Congress, *i. e.*, either of them.

7. I propose further, that the powers of Congress, and all other departments, acting under them, shall all be restricted to such matters only of general necessity and utility to all the States, as cannot come within the jurisdiction of any particular State, or to which the authority of any particular State is not competent: so that each particular State shall enjoy all sovereignty and supreme authority to all intents and purposes, excepting only those high authorities and powers by them delegated to Congress, for the purposes of the general union.

There remains one very important article still to be discussed, viz, what methods the Constitution shall point out, to enforce the acts and requisitions of Congress through the several States: and how the States which refuse or delay obedience to such acts and requisitions, shall be treated: this, I know, is a particular of the greatest delicacy, as well as of the utmost importance; and therefore, I think, ought to be decidedly settled by the Constitution, in our coolest hours, whilst no passions or prejudices exist, which may be excited by the great interests or strong circumstances of any particular case which may happen.

I know that supreme authorities are liable to err, as well as subordinate ones. I know that courts may be in the wrong, as well as the people: such is the imperfect state of human nature in all ranks and degrees of men; but we must take human nature as it is: it cannot be mended; and we are compelled both by wisdom and necessity, to adopt such methods as promise the greatest attainable good, though perhaps not the greatest possible, and such as are liable to the fewest inconveniences, though not altogether free of them.

This is a question of such magnitude, that I think it necessary to premise the great natural

principles on which its decision ought to depend — In the present state of human nature, all human life is a life of chances: it is impossible to make any interest so certain, but there will be a chance against it: and we are in all cases obliged to adopt a chance against us, in order to bring ourselves within the benefit of a greater chance in our favor; and that calculation of chances which is grounded on the great natural principles of truth and fitness, is of all others the most likely to come out right.

1. No laws of any State whatever, which do not carry in them a force which extends to their effectual and final execution, can afford a certain or sufficient security to the subject: this is too plain to need any proof.

2. Laws or ordinances of any kind (especially of august bodies of high dignity and consequence), which fail of execution are much worse than none; they weaken the government; expose it to contempt; destroy the confidence of all men, natives and foreigners, in it; and expose both aggregate bodies and individuals, who have placed confidence in it, to many ruinous disappointments, which they would have escaped, had no law or ordinance been made: therefore,

3. To appoint a Congress with powers to do all acts necessary for the support and uses of the union; and at the same time to leave all the States at liberty to obey them or not with impunity, is, in every view, the grossest absurdity, worse than a state of nature without any supreme authority at all, and at best a ridiculous effort of childish nonsense: and of course,

4. Every State in the Union is under the highest obligation to obey the supreme authority of the whole, and in the highest degree amenable to it, and subject to the highest censure for disobedience — Yet all this notwithstanding, I think the soul that sins shall die, *i. e.*, the censure of the great supreme power, ought to be so directed, if possible, as to light on those persons, who have betrayed their country, and exposed it to dissolution, by opposing and rejecting that supreme authority, which is the band of our union, and from whence proceeds the principal strength and energy of our government.

I therefore propose, that every person whatever, whether in public or private character, who shall, by public vote or overt act, disobey the supreme authority, shall be amenable to Congress, shall be summoned and compelled to appear before Congress, and, on due conviction, suffer such fine, imprisonment, or other punishment, as the supreme authority shall judge requisite.

It may be objected here, that this will make a Member of Assembly accountable to Congress for his vote in Assembly; I answer, it does so in this case only, viz., when that vote is to disobey the supreme authority; no Member of Assembly can have right to give such a vote, and therefore ought to be punished for so doing—When the supreme authority is disobeyed, the government must lose its energy and effect, and of course the Empire must be shaken to its very foundation.

A government which is but half executed, or whose operations may all be stopped by a single vote, is the most dangerous of all institutions.—See the present Poland, and ancient Greece buried in ruins, in consequence of this fatal error in their policy. A government which has not energy and effect, can never afford protection or security to its subjects, *i. e.*, must ever be ineffectual to its own ends.

I cannot therefore admit, that the great ends of our Union should lie at the mercy of a single State, or that the energy of our government should be checked by a single disobedience, or that such disobedience should ever be sheltered from censure and punishment; the consequence is too capital, too fatal to be admitted. Even though I know very well that a supreme authority, with all its dignity and importance, is subject to passions like other lesser powers, that they may be and often are heated, violent, oppressive, and very tyrannical; yet I know also, that perfection is not to be hoped for in this life, and we must take all institutions with their natural defects, or reject them altogether: I will guard against these abuses of power as far as possible, but I cannot give up all government, or destroy its necessary energy, for fear of these abuses.

But to fence them out as far as possible, and to give the States as great a check on the supreme authority, as can consist with its necessary energy and effect,

I propose that any State may petition Congress to repeal any law or decision which they have made, and if more than half the States do this, the law or decision shall be repealed, let its nature or importance be however great, excepting only such acts as create funds for the public credit, which shall never be repealed till their end is effected, or other funds equally effectual are substituted in their place; but Congress shall not be obliged to repeal any of these acts, so petitioned against, till they have time to lay the reasons of such acts before such petitioning States, and to receive their answer; because such petitions may arise from sudden heats, popular prejudices, or

the publication of matters false in fact, and may require time and means of cool reflection and the fullest information, before the final decision is made: but if after all more than half of the States persist in their demand of a repeal, it shall take place.

The reason is, the uneasiness of a majority of States affords a strong presumption that the act is wrong, for uneasiness arises much more frequently from wrong than right; but if the act was good and right, it would still be better to repeal and lose it, than to force the execution of it against the opinion of a major part of the States; and lastly, if every act of Congress is subject to this repeal, Congress itself will have stronger inducement not only to examine well the several acts under their consideration, but also to communicate the reasons of them to the States, than they would have if their simple vote gave the final stamp of irrevocable authority to their acts.

Further I propose, that if the execution of any act or order of the supreme authority shall be opposed by force in any of the States (which God forbid) it shall be lawful for Congress to send into such State a sufficient force to suppress it.

On the whole, I take it that the very existence and use of our union essentially depends on the full energy and final effect of the laws made to support it; and therefore I sacrifice all other considerations to this energy and effect, and if our Union is not worth this purchase, we must give it up—the nature of the thing does not admit of any other alternative.

I do contend that our Union is worth this purchase—with it, every individual rests secure under its protection against foreign or domestic insult and oppression—without it, we can have no security against the oppression, insult, and invasion of foreign powers; for no single State is of importance enough to be an object of treaty with them, nor, if it was, could it bear the expense of such treaties, or support any character or respect in a dissevered state, but must lose all respectability among the nations abroad.

We have a very extensive trade, which cannot be carried on with security and advantage, without treaties of commerce and alliance with foreign nations.

We have an extensive western territory which cannot otherwise be defended against the invasion of foreign nations, bordering on our frontiers, who will cover it with their own inhabitants, and we shall lose it forever, and our extent of empire be thereby restrained; and what is worse, their numerous posterity will in future time drive ours

into the sea, as the Goths and Vandals formerly conquered the Romans in like circumstances, unless we have the force of the union to repel such invasions. We have, without the Union, no security against the inroads and wars of one State upon another, by which our wealth and strength, as well as ease and comfort, will be devoured by enemies growing out of our own bowels.

I conclude then, that our union is not only of the most essential consequence to the well-being of the States in general but to that of every individual citizen of them, and of course ought to be supported, and made as useful and safe as possible, by a Constitution which admits that full energy and final effect of government which alone can secure its great ends and uses.

In a dissertation of this sort, I would not wish to descend to minutiae, yet there are some small matters which have important consequences, and therefore ought to be noticed. It is necessary that Congress should have all usual and necessary powers of self-preservation and order, *e. g.*, to imprison for contempt, insult, or interruption, etc., and to expel their own members for due causes, among which I would rank that of non-attendance on the house, or partial attendance without such excuse as shall satisfy the house.

Where there is such vast authority and trust devolved on Congress, and the grand and most important interests of the Empire rest on their decisions, it appears to me highly unreasonable that we should suffer their august consultations to be suspended, or their dignity, authority, and influence lessened by the idleness, neglect, and non-attendance of its members; for we know that the acts of a thin house do not usually carry with them the same degree of weight and respect as those of a full house.

Besides I think, when a man is deputed a delegate in Congress, and has undertaken the business, the whole Empire becomes of course possessed of a right to his best and constant services, which if any member refuses or neglects, the Empire is injured and ought to resent the injury, at least so far as to expel and send him home, that so his place may be better supplied.

I have one argument in favor of my whole plan, viz, it is so formed that no men of dull intellects, or small knowledge, or of habits too idle for constant attendance, of close and steady attention, can do the business with any tolerable degree of respectability, nor can they find either honor, profit, or satisfaction in being there, and of course, I could wish that the choice of the electors might never fall on such a man, or if it should, that

he might have sense enough (of pain at least, if not of shame) to decline his acceptance.

For after all that can be done, I do not think that a good administration depends wholly on a good Constitution and good laws, for insufficient or bad men will always make bad work, and a bad administration, let the Constitution and laws be ever so good; the management of able, faithful, and upright men alone can cause an administration to brighten, and the dignity and wisdom of an Empire to rise into respect; make truth the line and measure of public decision; give weight and authority to the government, and security and peace to the subject.

We now hope that we are on the close of a war of mighty effort and great distress, against the greatest power on earth, whetted into the most keen resentment and savage fierceness, which can be excited by wounded pride, and which usually rises higher between brother and brother offended, than between strangers in contest. Twelve of the Thirteen United States have felt the actual and cruel invasions of the enemy, and eleven of our capitals have been under their power, first or last, during the dreadful conflict; but a good Providence, our own virtue and firmness, and the help of our friends, have enabled us to rise superior to all the power of our adversaries, and made them seek to be at peace with us.

During the extreme pressures of the war, indeed many errors in our administration have been committed, when we could not have experience and time for reflection, to make us wise; but these will easily be excused, forgiven, and forgotten, if we can now, while at leisure, find virtue, wisdom, and foresight enough to correct them, and form such establishments, as shall secure the great ends of our union, and give dignity, force, utility, and permanency to our Empire.

It is a pity we should lose the honor and blessings which have cost us so dear, for want of wisdom and firmness, in measures, which are essential to our preservation. It is now at our option, either to fall back into our original atoms, or form such an union, as shall command the respect of the world, and give honor and security to our people.

This vast subject lies with mighty weight on my mind, and I have bestowed on it my utmost attention, and here offer the public the best thoughts and sentiments I am master of. I have confined myself in this dissertation entirely to the nature, reason, and truth of my subject, without once adverting to the reception it might meet

with from men of different prejudices or interests. To find the truth, not to carry a point, has been my object.

I have not the vanity to imagine that my sentiments may be adopted; I shall have all the re-

ward I wish or expect, if my dissertation shall throw any light on the great subject, shall excite an emulation of inquiry, and animate some abler genius to form a plan of greater perfection, less objectionable, and more useful.

NOTES APPENDED BY PELATIAH WEBSTER TO THE PUBLICATION MADE AT PHILADELPHIA
IN 1791,

NOTE 1.

1. Forming a plan of confederation, or a system of general government of the United States, engrossed the attention of Congress from the declaration of independence, July 4, 1776, till the same was completed by Congress, July 9, 1778, and recommended to the several States for ratification, which finally took place, March 1, 1781; from which time the said confederation was considered as the grand constitution of the general government, and the whole administration was conformed to it.

And as it had stood the test of discussion in Congress for two years, before they completed and adopted it, and in all the States for three years more, before it was finally ratified, one would have thought that it must have been a very finished and perfect plan of government.

But on trial of it in practice, it was found to be extremely weak, defective, totally inefficient, and altogether inadequate to its great ends and purposes. For,

1. It blended the legislative and executive powers together in one body.

2. This body, viz., Congress, consisted of but one house, without any check upon their resolutions.

3. The powers of Congress in very few instances were definitive and final; in the most important articles of government they could do no more than recommend to the several States; the consent of every one of which was necessary to give legal sanction to any act so recommended.

4. They could assess and levy no taxes.

5. They could institute and execute no punishments, except in the military department.

6. They had no power of deciding or controlling the contentions and disputes of different States with each other.

7. They could not regulate the general trade: or,

8. Even make laws to secure either public treaties with foreign States, or the persons of public ambassadors, or to punish violations or injuries done to either of them.

9. They could institute no general judiciary powers.

10. They could regulate no public roads, canals, or inland navigation, etc., etc., etc.

And what caps all the rest was, that (whilst under such an inefficient political constitution, the only chance we had of any tolerable administration lay wholly in the prudence and wisdom of the men who happened to take the lead in our public councils) it was fatally provided by the absurd doctrine of rotation, that if any Member of Congress by three years' experience and application, had qualified himself to manage our public affairs with consistency and fitness, that he should be constitutionally and absolutely rendered incapable of serving any longer, till by three years' discontinuance, he had pretty well lost the cue or train of the public counsels, and forgot the ideas and plans which made his service useful and important; and, in the mean time, his place should be supplied by a fresh man, who had the whole matter to learn, and when he had learned it, was to give place to another fresh man; and so on to the end of the chapter.

The sensible mind of the United States, by long experience of the fatal mischiefs of anarchy, or (which is about the same thing) of this ridiculous, inefficient form of government, began to apprehend that there was something wrong in our policy, which ought to be redressed and mended; but nobody undertook to delineate the necessary amendments.

I was then pretty much at leisure, and was fully of opinion (though the sentiment at that time would not very well bear) that it would be ten times easier to form a new constitution than to mend the old one. I therefore sat myself down to sketch out the leading principles of that political constitution, which I thought necessary to the preservation and happiness of the United States of America, which are comprised in this Dissertation.

I hope the reader will please to consider, that these are the original thoughts of a private individual dictated by the nature of the subject only, long before the important theme became the great object of discussion, in the most digni-

fied and important assembly, which ever sat or decided in America.

NOTE 2.

At the time when this Dissertation was written (Feb. 16, 1783) the defects and insufficiency of the Old Federal Constitution were universally felt and acknowledged; was manifest, not only that the internal police, justice, security and peace of the States could never be preserved under it, but the finances and public credit would necessarily become so embarrassed, precarious, and void of support, that no public movement, which depended on the revenue, could be managed with any effectual certainty: but though the public mind was under full conviction of all these mischiefs, and was contemplating a remedy, yet the public ideas were not at all concentrated, much less arranged into any new system or form of government, which would obviate these evils. Under these circumstances I offered this Dissertation to the public: how far the principles of it were adopted or rejected in the New Constitution, which was four years afterwards (Sept. 17, 1787) formed by the General Convention, and since ratified by all the States, is obvious to every one.

I wish here to remark the great particulars of my plan which were rejected by the Convention.

1. My plan was to keep the legislative and executive departments entirely distinct; the one to consist of the two houses of Congress, the other to rest entirely in the Grand Council of State.

2. I proposed to introduce a Chamber of Commerce, to consist of merchants, who should be consulted by the legislature in all matters of trade and revenue, and which should have the conducting of the revenue committed to them.

The first of these the Convention qualified; the second they say nothing of, *i. e.*, take no notice of it.

3. I proposed that the great officers of state should have the perusal of all bills, before they were enacted into laws, and should be required to give their opinion of them, as far as they affected the public interest in their several departments; which report of them Congress should cause to be read in their respective houses, and entered on their minutes. This is passed over without notice.

4. I proposed that all public officers appointed by the executive authority, should be amenable both to them and to the legislative power, and removable for just cause by either of them. This is qualified by the Convention.

And in as much as my sentiments in these respects were either qualified or totally neglected by the Convention, I suppose they were wrong; however, the whole matter is submitted to the politicians of the present age, and to our posterity in future.

In sundry other things, the Convention have gone into minutiae, *e. g.*, respecting elections of President, Senators, and Representatives in Congress, etc., which I proposed to leave at large to the wisdom and discretion of Congress, and of the several States.

Great reasons may doubtless be assigned for their decision, and perhaps some little ones for mine. Time, the great arbiter of all human plans, may, after a while, give his decision; but neither the Convention nor myself will probably live to feel either the exultation or mortification of his approbation or disapprobation of either of our plans.

But if any of these questions should in future time become objects of discussion, neither the vast dignity of the Convention, nor the low, unnoticed state of myself, will be at all considered in the debates; the merits of the matter, and the interests connected with or arising out of it, will alone dictate the decision.

CHAPTER VI.

1787.

FRAMING OF THE CONSTITUTION.

Opening of the Convention — Madison's preparations — Prominent members — Defects to be remedied — Randolph presents the Virginia plan — Charles Pinckney's plan — Debate on the Virginia plan — The question of representation — The New Jersey plan — Hamilton's plan — Debate upon Senate and House and the votes of the States — Proposal of the committee of compromise — Debate on the inclusion of slaves for representation purposes — The question of taxation and representation — The term of the executive — The resolutions referred to the committee of detail — The Constitution as reported by the committee of detail — The various compromises — Sectional differences over commerce and slavery — The Constitution engrossed and signed — Washington's letter transmitting Constitution to Congress — Omissions from the Constitution. Appendix to Chapter VI.—I. Members of Federal Convention. II. The Constitution.

When Monday, May 14, 1787, arrived, but few of the delegates had assembled at Philadelphia, those from Virginia and Pennsylvania being the only ones present, and it was not until the 25th of the month that a quorum of seven States was present.* On that day the members of the Convention assembled at the State-house and organized for business. Washington was placed in the chair as president† and Major William Jackson was appointed secretary.‡ The credentials of the delegates were examined and a committee appointed to prepare rules, the convention then adjourning until the 28th. The delegates from Massachusetts and Connecticut in the meantime arrived at Philadelphia. New Hampshire had also appointed hers, but as her treasury was empty

and as no funds could be raised, her delegates did not put in an appearance for some weeks;* and it was not until the latter part of July that all the States except Rhode Island were represented in the Convention. Consequently, when the Convention reassembled on May 28 only nine States were present. The doors were then closed and a pledge of secrecy was exacted from each member, and it was not until Madison's Journal of the debates of the convention was published by order of Congress in 1818 that the proceedings of the Convention were fully known.‡

Of the members of the Convention (or the "Assembly of demigods" as

* Madison's *Works* (Congress ed.), vol. i., p. 331.

† Curtis, *Constitutional History*, vol. i., p. 328; Bancroft, vol. vi., pp. 208-212. On the actions of Rhode Island, see Bates, *Rhode Island and the Formation of the Union*, p. 153 et seq.

‡ McMaster, *United States*, vol. i., p. 418. See also Frothingham, *Rise of the Republic*, chap. xii.; Hildreth, *History of the United States*, vol. iii., pp. 482-526; Bancroft, vol. vi., pp. 207-367.

* For a list of the members of the Convention, see Appendix i. at the end of the present chapter.

† Sparks, *Life of Washington*, p. 402; Elliot, *Debates*, vol. v., p. 123.

‡ Schouler, *United States*, vol. i., p. 39; Madison's *Works* (Congress ed.), vol. i., p. 329.

Jefferson calls it*) Madison was among the most active and undoubtedly deserves the chief consideration. He had prepared himself carefully for the work in view, studying all the Old World confederacies and reading all books that contained views pertinent to American problems.† One of the Georgia delegates wrote: "In the management of every great question he evidently took the lead in the Convention. * * * From a spirit of industry and application which he possesses in a most eminent degree, he always comes forward the best informed man of any point in debate."‡ In the Pennsylvania delegation were Robert Morris, who took no share in the public discussions, but appreciated the need of revising the Confederation; Gouverneur Morris, a powerful speaker and a brilliant debater, to whose ability to write plain yet forcible English we owe the final form of the Constitution; and James Wilson, who, with Madison, performed prodigious labors in the first half of the Convention, speaking for a broader national life. Alexander Hamilton was the principal delegate from New York, the other

two, Lansing and Yates, being of mediocre attainments. Hamilton favored a strong central government. From Connecticut came William Samuel Johnson, president of Columbia College, a man of great breadth of view; Oliver Ellsworth, a prominent lawyer and judge of the superior court of Connecticut; and Roger Sherman, a man of sound political principles and rugged honesty of purpose. Elbridge Gerry and Rufus King were the best known of the Massachusetts delegates, both having been members of Congress. From New Jersey came William Patterson and from Delaware came John Dickinson, "the penman of the Revolution," "one of the ablest lawyers and most scholarly men of his day." Of the Maryland delegates, Luther Martin, a learned lawyer, was the most prominent, while the South Carolina delegates—John Rutledge, Pierce Butler and the two Pinckneys—Charles and Charles C.—were all men of strength.*

After organizing for business a rule was adopted that "a house, to do business, shall consist of the deputies of not less than seven states, and all questions shall be decided by the greater number of these which shall be fully represented." When Congress passed the resolution for a con-

* Or "heroes, sages, and demigods" as John Adams says: *Works*, vol. viii., p. 452.

† Rives, *Life and Times of James Madison*, vol. ii., p. 208 *et seq.*; Hunt, *Life of Madison*, chap. xii., also p. 134 *et seq.* His "Notes of Ancient and Modern Confederacies, preparatory to the federal Convention of 1787," will be found in Madison's *Works* (Congress ed.), vol. i., pp. 293-315, 320-328.

‡ Pierce in *American Historical Review*, vol. iii., p. 331.

* McLaughlin, *The Confederation and the Constitution*, pp. 188-190; Thorpe, *The Story of the Constitution*, p. 112 *et seq.* See also the review of the lives and works of these men in Curtis, *Constitutional History*, vol. i., pp. 270-314.

Dear Sir

Montpellier May 13 1828.

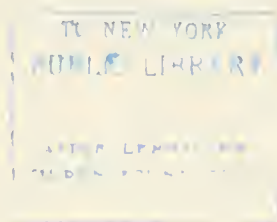
Perceiving that I am indebted to you for a copy of the Report to the Senate relating to the "Colonization of persons of colour" I return the thanks due to your politeness. The Document contains much interesting matter, and denotes an able hand in the preparation of it. I find it more easy however, to accede to its conclusion of "the power claimed for Congress, than to some of the positions & reasonings employed on the occasion.

You will not, I am sure, take it amiss, if I here point to an error of fact in your "Observations on Mr. Foot's amendment". It struck me when first reading them; but escaped my attention when thanking you for the copy with which you favored me. The "threatening contest" in the Convention of 1787, did not, as you supposed, turn on the degree of power to be granted to the Federal Government, but on the rule by which the States were to be represented and vote in the Government; the smaller States insisting on the rule of equality in all respects, the larger on the rule of proportion to inhabitants; and the compromise which ensued was that which established an equality in the Senate, and an inequality in the House of Representatives. The contests & compromises turning on the grants of power, tho' very important in some instances, were knots of a less Gordian character.

With great esteem & good wishes

James Madison

Mr Van Buren



vention, the members had not contemplated that the Articles themselves would be completely superseded by a Constitution,* but when the members actually convened, they were deeply impressed with the conviction that merely to revise the Articles would be wholly insufficient to remedy the glaring defects existing in the present government. The further the members got into the debates the greater seemed the necessity for making a radical change in the existing laws. Accordingly, the members of the Convention nerved themselves to the work of preparing such a constitution as would not only preserve the separate existence and the rights of all the States but would combine them into one great Confederacy. In fact the act of the Convention was in itself revolutionary.†

The ills that afflicted or were supposed to afflict the body politic were many and varied. Almost all seemed to agree that times were hard, though there were some who thought the people extravagant; some thought

the merchants were the cause of the trouble; there were too many merchants and lawyers, while agriculture and manufacturing were falling into decay; money was scarce, and paper should be issued; farmers' sons would rather become merchants; etc. Benjamin Franklin took a correct view of the situation in a pamphlet published at this time which he called *Consolation for America, or Remarks on Our Real Situation, Interests and Policy*. He said that the most important business of the continent was agriculture; that there were perhaps one hundred farmers to every merchant; and that nowhere in the world were farmers better paid for their produce. But instead of following their natural trade, too many of them turned shopkeepers. There were therefore too many shopkeepers for the number of buyers and, of course, trade was dead. Again the merchants were importing more than the people could buy, and naturally they complained of languishing trade. Agriculture and the fisheries were the sources of wealth, and farmers and fishermen were the chief customers of the merchants; therefore, if all the farmers turned merchants, it was to be expected that trade would be slow. To remedy this, he recommended that the farmers and fishermen return to their proper vocations.* It was generally admitted

* Upon returning to Maryland, Luther Martin said: "We had not been sent to form a government over the inhabitants of America considered as individuals. * * * That the system of government we were intrusted to prepare was a government over these thirteen States; but that in our proceedings we adopted principles which would be right and proper only on the supposition that there were no state governments at all, but that all the inhabitants of this extensive continent were in their individual capacity, without government, and in a state of nature."—Gay, *Life of Madison*, pp. 92-93.

† Gordy, *Political History of the United States*, vol. i., pp. 89-91.

* McMaster, *United States*, vol. i., pp. 423-427.

that the most radical defect in the Articles of Confederation was the fact that the States might comply with or disregard, as they saw fit, the recommendations of Congress, and therefore the most pressing duty before the Convention was to remedy this evil. None of the leaders, however, wished to erect a complete democracy. The democratic sentiment had not favored the holding of the Convention and had not sought to send its champions as delegates. The Convention was regarded from the first as an assemblage of federalists.*

The serious work of the Conven-

* Hunt, *Life of Madison*, pp. 117-118. Writing to John G. Jackson, December 27, 1821, Madison said: "That most of us carried into the Convention a profound impression, produced by the experienced inadequacy of the old Confederation, and by the monitory examples of all similar ones, ancient and modern, as to the necessity of binding the States together by a strong Constitution, is certain. The necessity of such a Constitution was enforced by the gross and disreputable inequalities which had been prominent in the internal administrations of most of the States. Nor was the recent and alarming insurrection, headed by Shays, in Massachusetts, without a very sensible effect on the public mind. Such, indeed, was the aspect of things, that, in the eyes of all the best friends of liberty, a crisis had arrived which was to decide whether the American experiment was to be a blessing to the world, or to blast forever the hopes which the republican cause had inspired; and what is not to be overlooked, the disposition to give to a new system all the vigor consistent with Republican principles was not a little stimulated by a backwardness in some quarters towards a Convention for the purpose, which was ascribed to a secret dislike to popular Government, and a hope that delay would bring it more into disgrace, and pave the way for a form of Government more congenial with monarchical or aristocratical predilections."—*Madison's Works* (Congress ed.), vol. iii., p. 244.

tion began on the morning of May 29, when, after the roll of delegates had been called, Edmund Randolph rose and made a long and vigorous speech, in which he pointed out the faults of the Confederation and besought the delegates to assist him in establishing a strong government. In his opening speech, Randolph said:

"The Confederation was made in the infancy of the science of constitutions, when the inefficiency of requisitions was unknown; when no commercial discord had arisen among states; when no rebellion like that in Massachusetts had broken out; when foreign debts were not urgent; when the havoc of paper money had not been foreseen; when treaties had not been violated; and when nothing better could have been conceded by states jealous of their sovereignty. But it offered no security against foreign invasion, for Congress could neither prevent nor conduct a war, nor punish infractions of treaties or of the law of nations, nor control particular states from provoking war. The federal government has no constitutional power to check a quarrel between separate states; nor to suppress a rebellion in any one of them; nor to establish a productive impost; nor to counteract the commercial regulations of other nations; nor to defend itself against the encroachments of the states. From the manner in which it has been ratified in many of the states, it cannot be claimed to be paramount to the state constitutions; so that there is a prospect of anarchy from the inherent laxity of the government. As the remedy, the government to be established must have for its basis the republican principle."*

As the spokesman of the Virginia delegates, he then presented for the consideration of the Convention a set

* See Fiske, *Critical Period of American History*, pp. 235-236; Gilpin's ed. of *Madison Papers*, vol. ii., p. 729 *et seq.* See also the resumé of this speech, in Gaillard Hunt's ed. of *Madison's Journal of the Debates in the Convention which Framed the Constitution of the United States*, vol. i., pp. 13-15 (1903, hereinafter cited as *Hunt, Madison's Journal*).

of fifteen resolutions which were to form the basis of the new Constitution and which became known as the Virginia plan.* These resolutions had been formulated with great labor and care by the seven Virginia delegates while awaiting the arrival at Philadelphia of a quorum of all the delegates.† They were as follows:‡

1. *Resolved*, that the Articles of Confederation ought to be so corrected and enlarged as to accomplish the objects proposed by their institution; namely, common defence, security of liberty, and general welfare.

2. *Resolved*, therefore, that the rights of suffrage in the National Legislature ought to be proportioned to the quotas of contribution, or to the number of free inhabitants, as the one or the other rule may seem best in different cases.

3. *Resolved*, that the National Legislature ought to consist of two branches.

4. *Resolved*, that the members of the first branch of the National Legislature ought to be elected by the people of the several States every

* Hunt's ed. of Madison's *Writings*, vol. iii., p. 15; Hunt, Madison's *Journal*, vol. i., pp. 15-18. Writing to Washington, Jay had said: "Let Congress legislate, let others execute, let others judge. Shall we have a King? Not in my opinion, while other opinions remain untried. Might we not have a governor-general, limited in his prerogatives and duration? Might not Congress be divided into an upper and lower house, the former appointed for life, the latter annually, and let the governor-general (to preserve the balance), with the advice of a council, for that only purpose, of the great judicial officers, have a negative on their acts? * * * What powers should be granted to the government, so constituted? * * * I think the more, the better; the States retaining only so much as may be necessary for domestic purposes, and all their principal officers, civil and military, being commissioned and removable by the national government."—Jay, *Life of John Jay*, vol. i., pp. 254-255; Pellet, *John Jay*, pp. 249-250.

† Rowland, *Life of George Mason*, vol. ii., p. 101. For a short discussion of Randolph's plan, see Conway, *Edmund Randolph*, p. 71 *et seq.*

‡ See Taylor, *Origin and Growth of the American Constitution*, App. xii.

for the term of; to be the age of years at least; to receive liberal stipends by which they may be compensated for the devotion of their time to the public service; to be ineligible to any office established by a particular State, or under the authority of the United States, except those particularly belonging to the functions of the first branch, during the term of service, and for the space of after its expiration; to be incapable of re-election for the space of after the expiration of their term of service, and to be subject to recall.

5. *Resolved*, that the members of the second branch of the National Legislature ought to be elected by those of the first, out of a proper number of persons nominated by the individual Legislatures, to be of the age of years at least; to hold their offices for a term sufficient to ensure their independency; to receive liberal stipends, by which they may be compensated for the devotion of their time to the public service; and to be ineligible to any office established by a particular State, or under the authority of the United States, except those peculiarly belonging to the functions of the second branch, during the term of service; and for the space of after the expiration thereof.

6. *Resolved*, that each branch ought to possess the right of originating acts; that the National Legislature ought to be empowered to enjoy the legislative rights vested in Congress by the Confederation, and moreover to legislate in all cases to which the separate States are incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual legislation; to negative all laws passed by the several States contravening, in the opinion of the National Legislature, the Articles of the Union, or any treaty subsisting under the authority of the Union; and to call forth the force of the Union against any member of the Union failing to fulfil its duty under the Articles thereof.

7. *Resolved*, that a National Executive be instituted; to be chosen by the National Legislature for the term of; to receive punctually, at stated times, a fixed compensation for the services rendered, in which no increase nor diminution shall be made, so as to affect the magistracy existing at the time of increase or diminution; and to be ineligible a second time; and that, besides a general authority to execute the national laws, it ought to enjoy the executive rights vested in Congress by the Confederation.

8. *Resolved*, that the Executive, and a convenient number of the national Judiciary, ought to compose a Council of Revision, with authority

to examine every act of the National Legislature, before it shall operate, and every act of a particular Legislature before a negative thereon shall be final; and that the dissent of the said Council shall amount to a rejection, unless the act of the National Legislature be again passed, or that of a particular Legislature be again negatived by of the members of each branch.

9. *Resolved*, that a National Judiciary be established; to consist of one or more supreme tribunals, and of inferior tribunals to be chosen by the National Legislature; to hold their offices during good behaviour, and to receive punctually, at stated times, fixed compensation for their services, in which no increase or diminution shall be made, so as to affect the persons actually in office at the time of such increase or diminution. That the jurisdiction of the inferior tribunals shall be to hear and determine, in the first instance, and of the supreme tribunal to hear and determine, in the dernier resort, all piracies and felonies on the high seas; captures from an enemy; cases in which foreigners, or citizens of other States, applying to such jurisdictions, may be interested; or which respect the collection of the national revenue; impeachments of any national officers, and questions which may involve the national peace and harmony.

10. *Resolved*, that provision ought to be made for the admission of States lawfully arising within the limits of the United States, whether from a voluntary junction of government and territory, or otherwise, with the consent of a number of voices in the National Legislature less than the whole.

11. *Resolved*, that a republican government, and the territory of each State, except in the instance of a voluntary junction of government and territory, ought to be guaranteed by the United States to each State.

12. *Resolved*, that provision ought to be made for the continuance of Congress and their authorities and privileges, until a given day after the reform of the Articles of Union shall be adopted, and for the completion of all their engagements.

13. *Resolved*, that provision ought to be made for the amendment of the Articles of Union, whenever it shall seem necessary; and that the assent of the National Legislature ought not to be required thereto.

14. *Resolved*, that the legislative, executive, and judiciary powers, within the several States ought to be bound by oath to support the Articles of Union.

15. *Resolved*, that the amendments which shall be offered to the Confederation, by the Conven-

tion, ought at a proper time or times, after the approbation of Congress, to be submitted to an assembly or assemblies of representatives, recommended by the several Legislatures to be expressly chosen by the people to consider and decide thereon. . . . It was then *Resolved*, that the House will tomorrow resolve itself into a Committee of the Whole House, to consider of the state of the American Union; and that the propositions moved by Mr. Randolph be referred to said Committee.

Charles Pinckney of South Carolina then arose and presented a draft of a Federal government which he himself had prepared.* This plan was based on the same principles as that of Randolph.† It proposed that the legislature should be divided into two branches, and that there should be executive and judicial departments and a negative on the acts of the States. It was referred to the committee of the whole, but no part of it was ever used and no copy of it has been preserved.‡ In 1818, however, Pinckney furnished a copy of this plan to John Quincy Adams, then Secretary of State. It is as follows:

We, the people of the States of New Hampshire, Massachusetts, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, do ordain, declare, and establish the following Con-

* Hunt's ed. of Madison's *Writings*, vol. iii., p. 22. See also Hannis Taylor, *The Origin and Growth of the American Constitution*, App. xiii.; *American Historical Review*, vol. ix., pp. 735-747; *Annual Report of the American Historical Association*, for 1902, vol. i., pp. 111-132; Hunt, *Madison's Journal*, vol. i., pp. 19-31.

† Elliot, *Debates*, vol. i., p. 391.

‡ Baneroff, vol. vi., p. 215; McMaster, *United States*, vol. i., p. 439.

stitution for the government of ourselves and posterity.

ARTICLE I.

The style of this government shall be: The United States of America, and the government shall consist of supreme legislative, executive and judicial powers.

ARTICLE II.

The legislative power shall be vested in a Congress, to consist of two separate Houses; one to be called the House of Delegates; and the other the Senate, who shall meet on the day of in every year.

ARTICLE III.

The members of the House of Delegates shall be chosen every year by the people of the several States; and the qualification of the electors shall be the same as those of the electors in the several States for their Legislatures. Each member shall have been a citizen of the United States for years; and shall be of years of age, and a resident in the State he is chosen for. Until a census of the people shall be taken in the manner hereinafter mentioned, the House of Delegates shall consist of to be chosen from the different States in the following proportions: for New Hampshire,; for Massachusetts,; for Rhode Island,; for Connecticut,; for New York,; for New Jersey,; for Pennsylvania,; for Delaware,; for Maryland,; for Virginia,; for North Carolina,; for South Carolina,; for Georgia,; and the Legislature shall hereinafter regulate the number of Delegates by the number of inhabitants, according to the provisions hereinafter made, at the rate of one for every thousand. All money bills of every kind shall originate in the House of Delegates; and shall not be altered by the Senate. The House of Delegates shall exclusively possess the power of impeachment, and shall choose its own officers; and vacancies therein shall be supplied by the executive authority of the States in the representation from which they shall happen.

ARTICLE IV.

The Senate shall be elected and chosen by the House of Delegates; which House, immediately after their meeting, shall choose by ballot Senators from among the citizens and residents of New Hampshire; from among those of Massachusetts; from among those of Rhode Island; from among those of

Connecticut; from among those of New York; from among those of New Jersey; from among those of Pennsylvania; from among those of Delaware; from among those of Maryland; from among those of Virginia; from among those of North Carolina; from among those of South Carolina; and from among those of Georgia. The Senators chosen from New Hampshire, Massachusetts, Rhode Island, and Connecticut, shall form one class; those from New York, New Jersey, Pennsylvania and Delaware, one class; and those from Maryland, Virginia, North Carolina, South Carolina and Georgia, one class. The House of Delegates shall number these classes one, two, and three; and fix the times of their service by lot. The first class shall serve for years; the second for years; and the third for years. As their times of service expire, the House of Delegates shall fill them up by elections for years; and they shall fill all vacancies that arise from death or resignation, for the time of service remaining of the members so dying or resigning. Each Senator shall be years of age at least; and shall have been a citizen of the United States for four years before his election; and shall be a resident of the State he is chosen from. The Senate shall choose its own officers.

ARTICLE V.

Each State shall prescribe the time and manner of holding elections by the people for the House of Delegates; and the House of Delegates shall be the judges of the elections, returns, and qualifications of their members.

In each House a majority shall constitute a quorum to do business. Freedom of speech and debate in the Legislature shall not be impeached, or questioned, in any place out of it; and the members of both Houses shall in all cases, except for treason, felony, or breach of the peace, be free from arrest during their attendance on Congress, and in going to and returning from it. Both Houses shall keep Journals of their proceedings, and publish them, except on secret occasions; and the Yeas and Nays may be entered thereon at the desire of one of the members present. Neither House, without the consent of the other, shall adjourn for more than days, nor to any place but where they are sitting.

The members of each House shall not be eligible to, or capable of holding any office under the Union, during the time for which they have been respectively elected; nor the members of the Senate

for one year after. The members of each House shall be paid for their services by the States which they represent. Every bill which shall have passed the Legislature shall be presented to the President of the United States for his revision; if he approves it, he shall sign it; but if he does not approve it, he shall return it, with his objections, to the House it originated in: which House, if two thirds of the members present, notwithstanding the President's objections, agree to pass it, shall send it to the other House, with the President's objections; where if two thirds of the members present also agree to pass it, the same shall become a law; and all bills sent to the President, and not returned by him within days, shall be laws, unless the Legislature, by their adjournment prevent their return; in which case they shall not be laws.

ARTICLE VI.

The Legislature of the United States shall have the power to lay and collect taxes, duties, imposts, and excises;

To regulate commerce with all nations, and among the several States;

To borrow money and emit bills of credit;

To establish post-offices;

To raise armies;

To build and equip fleets;

To pass laws for arming, organizing, and disciplining the militia of the United States;

To subdue a rebellion in any State, on application of its Legislature;

To coin money, and regulate the value of all coins, and to fix the standard of weights and measures;

To provide such dockyards and arsenals, and erect such fortifications as may be necessary for the United States, and to exercise exclusive jurisdiction therein;

To appoint a Treasurer, by ballot;

To constitute tribunals inferior to the Supreme Court;

To establish post and military roads;

To establish and provide for a national university at the seat of government of the United States;

To establish uniform rules of naturalization;

To provide for the establishment of a seat of government for the United States, not exceeding miles square, in which they shall have exclusive jurisdiction;

To make rules concerning captures from an enemy;

To declare the law and punishment of piracies

and felonies at sea, and of counterfeiting coin, and of all offences against the laws of nations;

To call forth the aid of the militia to execute the laws of the Union, enforce treaties, suppress insurrections, and repel invasions;

And to make all laws for carrying the foregoing powers into execution.

The Legislature of the United States shall have the power to declare the punishment of treason, which shall consist only in levying war against the United States, or any of them, or in adhering to their enemies. No person shall be convicted of treason but by the testimony of two witnesses.

The proportion of direct taxation shall be regulated by the whole number of inhabitants of every description; which number shall, within years after the first meeting of the Legislature, and within the term of every year after, be taken in the manner to be prescribed by the Legislature.

No tax shall be laid on articles exported from the States; nor capitation tax but in proportion to the census before directed.

All laws regulating commerce shall require the assent of two thirds of the members present in each House. The United States shall not grant any title of nobility. The Legislature of the United States shall pass no law on the subject of religion; nor touching or abridging the liberty of the press; nor shall the privilege of writ of Habeas Corpus ever be suspended, except in case of rebellion or invasion.

All acts made by the Legislature of the United States, pursuant to this Constitution, and all treaties made under the authority of the United States, shall be the supreme law of the land; and all judges shall be bound to consider them as such in their decisions.

ARTICLE VII.

The Senate shall have the sole and exclusive power to declare war; and to make treaties; and to appoint ambassadors and other Ministers to foreign nations; and judges of the Supreme Court.

They shall have the exclusive power to regulate the manner of deciding all disputes and controversies now existing, or which may arise, between the States, respecting jurisdiction of territory.

ARTICLE VIII.

The executive power of the United States shall be vested in a President of the United States of America, which shall be his style; and his title shall be His Excellency. He shall be elected for

..... years; and shall be re-eligible. He shall from time to time give information to the Legislature of the state of the Union, and recommend to their consideration the measures he may think necessary. He shall take care that the laws of the United States be duly executed. He shall commission all the officers of the United States; and, except as to ambassadors, other ministers, and judges of the Supreme Court, he shall nominate, and with the consent of the Senate, appoint, all other officers of the United States. He shall receive public ministers from foreign nations; and may correspond with the Executives of the different States. He shall have power to grant pardons and reprieves, except in impeachments. He shall be Commander-in-Chief of the army and navy of the United States, and of the militia of the several States; and shall receive a compensation which shall not be increased or diminished during his continuance in office. At entering on the duties of his office, he shall take an oath faithfully to execute the duties of a President of the United States. He shall be removed from his office on impeachment by the House of Delegates, and conviction in the Supreme Court of treason, bribery or corruption. In case of his removal, death, resignation or disability, the President of the Senate shall exercise the duties of his office until another President be chosen. And in case of the death of the President of the Senate, the Speaker of the House of Delegates shall do so.

ARTICLE IX.

The Legislature of the United States shall have the power, and it shall be their duty, to establish such courts of law, equity, and admiralty, as shall be necessary.

The judges of the courts shall hold their offices during good behaviour; and receive a compensation, which shall not be increased or diminished during their continuance in office. One of these courts shall be termed the Supreme Court; whose jurisdiction shall extend to all cases arising under the laws of the United States, or affecting ambassadors, other public ministers and consuls; to the trial of impeachment of officers of the United States; to all cases of admiralty and maritime jurisdiction. In cases of impeachment affecting ambassadors and other public ministers, this jurisdiction shall be original; and in all other cases appellate.

All criminal offences, except in cases of impeachment, shall be tried in the State where they shall be committed. The trials shall be open and public, and shall be by jury.

ARTICLE X.

Immediately after the first census of the people of the United States, the House of Delegates shall apportion the Senate by electing for each State, out of the citizens resident therein, one Senator for every members each State shall have in the House of Delegates. Each State shall be entitled to have at least one member in the Senate.

ARTICLE XI.

No State shall grant letters of marque and reprisal, or enter into a treaty, or alliance, or confederation; nor grant any title of nobility; nor without the consent of the Legislature of the United States, lay any impost on imports: nor keep troops or ships of war in time of peace; nor enter into compacts with other States or foreign powers; nor emit bills of credit; nor make anything but gold, silver, or copper, a tender in payment of debts; nor engage in war except for self-defence when actually invaded, or the danger of invasion be so great as not to admit of a delay until the Government of the United States can be informed thereof. And to render their prohibitions effectual, the Legislature of the United States shall have power to revise the laws of the several States that may be supposed to infringe the powers exclusively delegated by this Constitution to Congress, and to negative and annul such as do.

ARTICLE XII.

The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States. Any person, charged with crimes in any State, fleeing from justice to another, shall, on demand of the Executive of the State from which he fled, be delivered up, and removed to the State having jurisdiction of the offence.

ARTICLE XIII.

Full faith shall be given, in each State, to the acts of the Legislature, and to the records and judicial proceedings of the courts and magistrates, of every State.

ARTICLE XIV.

The Legislature shall have power to admit new States into the Union, on the same terms with the original States; provided two thirds of the members present in both Houses agree.

ARTICLE XV.

On the application of the Legislature of a State, the United States shall protect it against domestic insurrection.

ARTICLE XVI.

If two thirds of the Legislature of the States apply for the same, the Legislature of the United States shall call a convention for the purpose of amending the Constitution or, should Congress, with the consent of two thirds of each House, propose to the States amendments to the same, agreement of two thirds of the Legislatures of the States shall be sufficient to make the said amendments parts of the Constitution.

The ratification of the conventions of States shall be sufficient for organizing this Constitution.

Ordered that the said draft be referred to the Committee of the Whole appointed to consider the state of the American Union.

The Virginia plan was referred to the committee of the whole and debated and amended with great care during the next two weeks.* On May 30 discussion began, when Randolph moved that "A national government ought to be established consisting of supreme legislative, executive, and judiciary."† C. C. Pinckney said that this was beyond the power of the Convention, as they were supposed only to revise the existing Articles of Confederation.‡ The supremacy of the Federal government was then questioned, but Madison said that a National government ought to be established and not a "federal one among sovereign states."|| It was decided that the States should give way to the Federal government when their powers conflicted, six States (Massachusetts, Pennsylvania, Delaware, Virginia,

North Carolina and South Carolina) voting in favor of this, while Connecticut voted against and New York was divided.*

The New Jersey delegation was seated the next day (May 31) and then the third resolution, that the national legislature should consist of two branches, was passed, Pennsylvania alone dissenting, probably because of complaisance to Franklin's known partiality to a single house.† The fourth resolution, regarding the popular election of representatives, provoked an animated discussion—Elbridge Gerry, Roger Sherman, Martin, Rutledge and the two Pinckneys speaking against it, and George Mason, Madison, Hamilton, Wilson, and Dickinson in favor. Gerry said: "The evils we experience flow from the excess of democracy. The people do not want virtue but are the dupes of pretended patriots," but Wilson said, "Without the confidence of the people no government, least of all a republican government, can long subsist. * * * The election of the first branch by the people is not the corner-stone only but the foundation of the fabric," while Hamilton added the weight of his influence by saying: "It is essential to the democratic rights of the community that the first branch be directly elected by the

* Bancroft, vol. vi., pp. 215-230.

† Hunt's ed. of Madison's *Writings*, vol. iii., p. 37.

‡ Hunt, Madison's *Journal*, vol. i., p. 33.

|| Gilpin, *Madison Papers*, vol. ii., p. 752.

* Hunt, Madison's *Journal*, vol. i., p. 36; McLaughlin, *The Confederation and the Constitution*, pp. 195-196; Curtis, *Constitutional History*, vol. i., p. 333, note.

† Hunt, Madison's *Journal*, vol. i., p. 39.

people." Mason argued that the larger branch "ought to know and sympathize with every part of the community; and ought therefore to be taken not only from different parts of the whole republic but also from different districts of the larger members of it."* Sounder opinion prevailing, the resolution was finally passed by the vote of six States (Massachusetts, New York, Pennsylvania, Virginia, North Carolina and Georgia) to two (New Jersey and South Carolina), with Connecticut and Delaware divided.† The following three days were spent in discussing the question as to whether there should be a single executive or more than one; some of the delegates advocating three. Rutledge, Sherman, and Wilson argued in favor of a single executive, Randolph urged that "the great requisites for the executive department—vigor, dispatch and responsibility" would be found better in three men than in one, while Gerry favored an executive council "in order to give weight and inspire confidence."‡ But by a vote of seven States to three a single executive was decided upon.|| On June 2 it was

decided that the executive should be chosen by the National legislature for a term of seven years, Massachusetts, Connecticut, New York, Delaware, Virginia, North Carolina, South Carolina and Georgia voting in the affirmative, while Pennsylvania and Maryland voted in the negative.*

On May 31 a resolution was adopted bestowing on the National legislature the right to negative such laws as might in its opinion contravene the Articles of Union or any treaties subsisting under the authority of the Union.† This was decided by a vote of nine States (Massachusetts, New York, New Jersey, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina and Georgia), Connecticut being divided.‡ So rapidly did the work of the Convention go forward that by June 5 a large portion of the Virginia plan had been adopted in committee. On the following day the manner of choosing the members of the first branch of the legislature again came up for discussion. Charles Pinckney declared in favor of election by the State legislature, but this was negatived by a vote of eight States (Massachusetts, New York, Pennsylvania, Delaware, Maryland, Virginia, North Carolina and Georgia) against three (Connecticut, New Jersey and

* Fiske, *Critical Period*, pp. 242-243; Hunt, *Madison's Journal*, vol. i., pp. 40-42.

† McMaster, vol. i., pp. 440-441; Curtis, *Constitutional History*, vol. i., p. 336, note; Hunt, *Madison's Journal*, vol. i., p. 42.

‡ Hunt, *Madison's Journal*, vol. i., pp. 49-52, 62, 66 *et seq.*; Fiske, *Critical Period*, pp. 277-278.

|| New York, Delaware and Maryland voted no. Curtis, *Constitutional History*, vol. i., p. 351; Hunt, *Madison's Journal*, p. 69.

* Hunt, *Madison's Journal*, vol. i., pp. 56-57.

† McLaughlin, *The Confederation and the Constitution*, p. 202; Hunt, *Madison's Journal*, vol. i., pp. 45-48.

‡ Hunt, *Madison's Journal*, vol. i., p. 47, and for the reconsideration of the subject, pp. 101-107.

South Carolina). Gerry said that often the worst men would succeed in getting into the legislature;* Wilson and George Mason argued in favor of popular elections;† while Dickinson declared that one branch of the legislature should be drawn immediately from the people and that the State legislatures ought to choose the other.‡ On June 7 it was decided by a vote of ten States that the second branch should be chosen as Mr. Dickinson suggested.||

Thus far all had gone comparatively smoothly, but the rock upon which the convention split and nearly foundered was the subject of representation in the two legislative branches of the government, the question being first brought up by William Patterson of New Jersey on June 9.§ Judge David Brearly of New Jersey spoke first against basing the representation on population and he was followed by Patterson, both using practically the same arguments. Brearly said that according to the Virginia plan Virginia, Massachusetts, and Pennsylvania would carry everything before them. He said that—

“It was known to him, from facts within New Jersey, that where large and small counties were united into a district for electing representatives for the district, the large counties always carried

their point, and consequently the large States would do so. Virginia with her sixteen votes will be a solid column indeed, a formidable phalanx. While Georgia with her solitary vote and the other little States will be obliged to throw themselves constantly into the scale of some large one, in order to have any weight at all. * * * Is it fair, then, it will be asked, that Georgia should have an equal vote with Virginia? He would not say it was. What remedy, then? Only one: that a map of the United States be spread out, that all the existing boundaries be erased, and that a new partition of the whole be made into thirteen equal parts.” *

After saying that the Convention should keep within the limits prescribed in order that it might not be charged with usurpation, Patterson said:

“A Confederacy supposes sovereignty in the members composing it, and sovereignty supposes equality. If we are to be considered as a nation, all state distinctions must be abolished, the whole must be thrown into hotchpot, and when an equal division is made, then there may be fairly an equality of representation.” †

He said also that—

“there was no more reason that a great individual state contributing much, should have more votes than a small one contributing little, than that a rich individual citizen should have more votes than an indigent one. * * * Give the large states an influence in proportion to their magnitude and what will be the consequence? Their ambition will be proportionately increased and the small states will have everything to fear. * * * Shall I submit the welfare of New Jersey with five votes in a council where Virginia has sixteen?” ‡

James Wilson of Pennsylvania spoke in favor of the population basis, pointing out the absurdity and

* *Ibid*, vol. i., p. 84.

† Hunt's ed. of Madison's *Writings*, vol. iii., p. 101; Hunt, *Madison's Journal*, vol. i., pp. 84-85, 86.

‡ *Ibid*, vol. i., p. 89.

§ *Ibid*, vol. i., pp. 94-101.

§ Schouler, *United States*, vol. i., p. 23.

* Hunt, *Madison's Journal*, vol. i., p. 110; Fiske, *Critical Period*, p. 247.

† Hunt, *Madison's Journal*, vol. i., p. 111.

‡ Fiske, *Critical Period*, p. 247; Hunt, *Madison's Journal*, p. 112.

injustice of giving 150,000 men in one part of the country as much weight in the government as 750,000 in another part. "The gentlemen from New Jersey is candid," he said. "He declares his opinions boldly. I commend him for it. I will be equally candid. * * * I will never confederate on his principles." Gunning Bedford of Delaware was especially violent. He said:

"Pretenses to support ambition are never wanting. The cry is, where is the danger? and it is insisted that although the powers of the general government will be increased, yet it will be for the good of the whole; and although the three great states form nearly a majority of the people of America, they never will injure the lesser states. *Gentlemen, I do not trust you.* If you possess the power the abuse of it could not be checked; and what then would prevent you from exercising it to our destruction? * * * Sooner than be ruined, *there are foreign powers who will take us by the hand.* I say this not to threaten nor intimidate, but that we should reflect seriously before we act."

Rufus King rebuked this speech by saying, "I am concerned for what fell from the gentleman from Delaware—*take a foreign power by the hand.* I am sorry he mentioned it and I hope he is able to excuse it to himself on the score of passion."*

According to Martin, "the convention was on the verge of dissolution, scarce held together by the strength of a hair," the delegates from Massachusetts, Pennsylvania, Virginia, North Carolina, South Carolina and Georgia favoring representation in proportion to their importance, while the delegates from Connecticut, New

York, New Jersey, Delaware and Maryland opposed it from various motives. Patterson said that the small States could not be compelled to accept disagreeable conditions and that "New Jersey [would] never confederate on the plan before the Committee. She would be swallowed up. He had rather submit to a monarch, to a despot, than to such a fate. He would not only oppose here but on his return home [would] do every thing in his power to defeat it there."* Again Wilson asked:

"Are not the citizens of Pennsylvania equal to those of New Jersey? Does it require one hundred and fifty of the former to balance the latter? * * * If the small states will not confederate on this plan Pennsylvania and we presume some other states would not confederate on any other. We have been told that each state is sovereign, all are equal, so each man is naturally a sovereign over himself and all men are therefore virtually equal. Can he retain this equality when he becomes a member of Civil Government? He cannot. As little can a sovereign state when it becomes a member of a federal government. If New Jersey will not part with her sovereignty, it is vain to talk of a government."†

However, the small State men were no match for their opponents, and on June 11 a motion was carried in favor of "equitable" rather than equal representation. Seven States (Massachusetts, Connecticut, Pennsylvania, Virginia, North Carolina, South Carolina, and Georgia) voted for proportional representation in the first branch, and three (New

* Hunt's ed. of *Madison's Writings*, vol. iii., pp. 133-134; Hunt, *Madison's Journal*, vol. i., p. 113.

† Hunt's ed. of *Madison's Writings*, vol. iii., p. 135; Hunt, *Madison's Journal*, vol. i., pp. 113-114.

* Fiske, *Critical Period*, pp. 249-250.

York, New Jersey, and Delaware) against (Maryland being divided),* while the vote stood six to five for proportional representation in the second branch,† Massachusetts, Pennsylvania, Virginia, North Carolina, South Carolina, and Georgia voting in favor, while Connecticut, New York, New Jersey, Delaware, and Maryland voted against.‡ The remaining topics of the Virginia plan were now taken into consideration until June 13 when the last one was disposed of. The committee of the whole then reported to the House, and the next day was fixed for the consideration of the report.¶

Patterson of New Jersey now obtained permission to submit an entirely different plan and on June 15 he read the New Jersey plan, which was as follows:

1. *Resolved*, That the Articles of Confederation ought to be so revised, corrected and enlarged, as to render the federal Constitution adequate to the exigencies of government, and the preservation of the Union.

2. *Resolved*, That, in addition to the powers vested in the United States in Congress by the present existing Articles of Confederation, they be authorized to pass acts for raising a revenue, by levying a duty or duties on all goods or merchandise of foreign growth or manufacture, imported into any part of the United States, by stamps on paper, vellum, or parchment; and by a

postage on all letters or packages passing through the general post-office;—to be applied to such federal purposes as they shall deem proper and expedient: to make rules and regulations for the collection thereof; and the same, from time to time, to alter and amend in such manner as they shall think proper: to pass acts for the regulation of trade and commerce, as well with foreign nations as with each other;—provided that all punishments, fines, forfeitures, and penalties, to be incurred for contravening such acts, rules and regulations, shall be adjudged by the common-law judiciaries of the state in which any offence contrary to the true intent and meaning of such acts, rules and regulations, shall have been committed or perpetrated, with liberty of commencing in the first instance all suits and prosecutions for that purpose in the superior common-law judiciary in such state; subject, nevertheless, for the correction of all errors, both in law and fact, in rendering judgment, to an appeal to the judiciary of the United States.

3. *Resolved*, That whenever requisitions shall be necessary, instead of the rule for making requisitions mentioned in the Articles of Confederation, the United States in Congress be authorized to make such requisitions in proportion to the whole number of white and other free citizens and inhabitants, of every age, sex, and condition, including those bound to servitude for a term of years, and three fifths of all other persons not comprehended in the foregoing description, except Indians not paying taxes; that, if such requisitions be not complied with in the time specified therein, to direct the collection thereof in the non-complying states, and for that purpose to devise and pass acts directing and authorizing the same;—provided, that none of the powers hereby vested in the United States in Congress shall be exercised without the consent of at least states; and in that proportion, if the number of confederated states should hereafter be increased or diminished.

4. *Resolved*, That the United States in Congress be authorized to elect a federal executive, to consist of persons; to continue in office for the term of . . . years; to receive punctually, at stated times, a fixed compensation for their services, in which no increase or diminution shall be made so as to affect the persons composing the executive at the time of such increase or diminution; to be paid out of the federal treasury; to be incapable of holding any other office or appointment during their time of service, and for years thereafter; to be ineligible a second time, and removable by Congress, on application by a

* Curtis, *Constitutional History*, vol. i., pp. 340, 343; Hunt, *Madison's Journal*, vol. i., pp. 119–120.

† Thorpe, *Story of the Constitution*, p. 122 *et seq.*

‡ Hunt, *Madison's Journal*, vol. i., p. 121; Curtis, *Constitutional History*, vol. i., p. 344.

¶ McLaughlin, *The Confederation and the Constitution*, pp. 211–212. The nineteen resolutions in the report are given in Curtis, *Constitutional History*, vol. i., pp. 365–367; Hunt, *Madison's Journal*, vol. i., pp. 134–137.

majority of the executives of the several states: that the executive, besides their general authority to execute the federal acts, ought to appoint all federal officers not otherwise provided for, and to direct all military operations;—provided, that none of the persons composing the federal executive shall, on any occasion, take command of any troops, so as personally to conduct any military enterprise, as general, or in any other capacity.

5. *Resolved*, That a federal judiciary be established, to consist of a supreme tribunal, the judges of which to be appointed by the executive, and to hold their offices during good behaviour; to receive punctually, at stated times, a fixed compensation for their services, in which no increase or diminution shall be made so as to affect the persons actually in office at the time of such increase or diminution. That the judiciary so established shall have authority to hear and determine, in the first instance, on all impeachments of federal officers, and, by way of appeal, in the dernier ressort, in all cases touching the rights of ambassadors; in all cases of captures from an enemy; in all cases of piracies and felonies on the high seas; in all cases in which foreigners may be interested; in the construction of any treaty or treaties, or which may arise on any of the acts for the regulation of trade, or the collection of the federal revenue: that none of the judiciary shall, during the time they remain in office, be capable of receiving or holding any office or appointment during their term of service, or for thereafter.

6. *Resolved*, That all acts of the United States in Congress, made by virtue and in pursuance of the powers hereby, and by the Articles of Confederation vested in them, and all treaties made and ratified under the authority of the United States, shall be the supreme law of the respective states, so far forth as those acts or treaties shall relate to the said states or their citizens; and that the judiciary of the several states shall be bound thereby in their decisions, any thing in the respective laws of the individual states to the contrary notwithstanding; and that if any state, or any body of men in any state, shall oppose or prevent the carrying into execution such acts or treaties, the federal executive shall be authorized to call forth the power of the confederated states, or so much thereof as may be necessary, to enforce and compel an obedience to such acts, or an observance of such treaties.

7. *Resolved*, That provision be made for the admission of new states into the Union.

8. *Resolved*, That the rule for naturalization ought to be the same in every state.

9. *Resolved*, That a citizen of one state, committing an offence in another state of the Union, shall be deemed guilty of the same offence as if it had been committed by a citizen of the state in which the offence was committed.*

The debate upon the New Jersey plan began immediately, Wilson comparing it with the Virginia plan and pointing out that the essential differences were that the Jersey plan proposed a single branch legislature which would derive its powers from the States and an executive of several persons, while the power of the legislature to act on national concerns was limited, though the executive had power to compel obedience by force.† Up to this time Hamilton had hardly spoken, “partly from respect to others who superior abilities, age and experience rendered him unwilling to bring forward ideas dissimilar to theirs, and partly from his delicate situation with respect to his own State, to whose sentiments, as expressed by his colleagues, he could by no means accede.”‡ But on June 18 he arose and delivered an able speech in which he said he did not like either of the plans presented but thought the Jersey plan the best. It was merely the Articles of Confed-

* Taylor, *The Origin and Growth of the American Constitution*, App. xv. See also Curtis, *Constitutional History*, vol. i., p. 370; Hunt, *Madison's Journal*, vol. i., pp. 139–142; Gilpin, *Madison Papers*, vol. ii., p. 862 *et seq.*

† McMaster, vol. i., p. 444. For further details of the whole debate on the Jersey plan, see also Bancroft, vol. vi., pp. 231–238; McLaughlin, *The Confederation and the Constitution*, p. 213. *et seq.*; Hunt, *Madison's Journal*, pp. 143–151.

‡ Hunt, *Madison's Journal*, vol. i., p. 152.

eration revised and extended.* He then presented the following eleven resolutions, which embodied some of his ideas regarding government:†

I. The supreme legislative power of the United States of America is to be vested in two distinct bodies of men; the one to be called the Assembly, the other the Senate; who together shall form the Legislature of the United States, with power to pass all laws whatsoever, subject to the negative hereafter mentioned.

II. The Assembly to consist of persons elected by the people, to serve for three years.

III. The Senate to consist of persons elected to serve during good behaviour. Their election to be made by electors chosen for that purpose by the people. In order to do this, the States to be divided into election districts. On the death, removal, or resignation of any Senator, his place to be filled out of the district from which he came.

IV. The supreme executive authority of the United States to be vested in a Governor, to be elected to serve during good behaviour. His election to be made by electors chosen by the people, in the election districts aforesaid; or by electors chosen for that purpose by the respective Legislatures—provided that if an election be not made within a limited time, the President of the Senate shall be the Governor. The Governor to have a negative upon all laws about to be passed—and (to have) the execution of all laws passed—to be the Commander-in-Chief of the land and naval forces and of the militia of the United States—to have the entire direction of war when authorized or begun—to have, with the advice and approbation of the Senate, the power of making all treaties—to have the appointment of the

heads or chief officers of the departments of finance, war, and foreign affairs—to have the nomination of all other officers (ambassadors to foreign nations included) subject to the approbation or rejection of the Senate—to have the power of pardoning all offences but treason, which he shall not pardon without the approbation of the Senate.

V. On the death, resignation, or removal of the Governor, his authorities to be exercised by the President of the Senate (until a successor be appointed).

VI. The Senate to have the sole power of declaring war—the power of advising and approving all treaties—the power of approving or rejecting all appointments of officers, except the heads or chiefs of the departments of finance, war, and foreign affairs.

VII. The Supreme judicial authority of the United States to be vested in twelve judges, to hold their offices during good behaviour, with adequate and permanent salaries. This court to have original jurisdiction in all causes of capture, and an appellate jurisdiction (from the courts of the several States) in all causes in which the revenues of the General Government or the citizens of foreign nations are concerned.

VIII. The Legislature of the United States to have power to institute courts in each State for the determination of all causes of capture, and all matters relating to their revenues, or in which the citizens of foreign nations are concerned.

IX. The Governor, Senators, and all officers of the United States to be liable to impeachments for mal and corrupt conduct, and upon conviction to be removed from office, and disqualified for holding any place of trust or profit.

All impeachments to be tried by a court, to consist of the judges of the Supreme Court, chief or senior judge of the Superior Court of law of each State—provided that such judge hold his place during good behaviour and have a permanent salary.

X. All laws of the particular States contrary to the Constitution or laws of the United States to be utterly void. And the better to prevent such laws being passed, the Governor or President of each State shall be appointed by the General Government and shall have a negative upon the laws about to be passed in the State of which he is Governor or President.

XI. No State to have any forces, land or naval—and the militia of all the States to be under the sole and exclusive direction of the United States, the officers of which to be appointed and commissioned by them.

* Lodge, *Alexander Hamilton*, p. 59 *et seq.*; Gilpin, *Madison Papers*, vol. ii., p. 828 *et seq.*; Curtis, *Constitutional History*, vol. i., p. 371 *et seq.*; Hunt, *Madison's Journal*, vol. i., p. 152 *et seq.*; Thorpe, *The Story of the Constitution*, p. 125. Lodge says (pp. 62–63) that undoubtedly Hamilton knew that his plan had no chance of adoption but that his chief aim was “to brace the minds of his fellow members and to stimulate them to taking higher ground than the majority of their constituents demanded.”

† Lodge's ed. of *Hamilton's Works*, vol. i., pp. 347–369; Hunt's ed. of *Madison's Writings*, vol. iii., p. 197; Hunt, *Madison's Journal*, vol. i., pp. 162–164. See also Taylor, *The Origin and Growth of the American Constitution*, App. xiv.

Madison then attacked the Jersey plan in probably the ablest speech against it.* Patterson in presenting the plan had laid great stress upon the Articles of Confederation and the duty of the States to obey them, but Madison refuted his argument by saying that these very articles declared that if one of the States committed an infraction of any one of them, the compact between the States was broken. He then instanced many cases when various States had overstepped their powers, asking what check the Jersey plan put upon these infractions. While it provided for compelling obedience by force and while it would be easy to bring the smaller States into submission, how about the larger States, could they be forced into submission? In case no plan could be agreed upon, how would the little States fare? Would not Delaware and New Jersey suffer at the hands of Pennsylvania and would Rhode Island be safe from Massachusetts? This speech practically settled the fate of the Jersey plan, which was declared inadmissible by a vote of seven States (Massachusetts, Connecticut, Pennsylvania, Virginia, North Carolina, South Carolina and Georgia) against three (New York, New Jersey and Delaware) with Maryland divided.†

* See Hunt, *Madison's Journal*, vol. i., pp. 167-184.

† McMaster, vol. i., pp. 445-446; Curtis, *Constitutional History*, vol. i., pp. 379-381; Elliot, *Debates*, vol. i., p. 180; Hunt, *Madison's Journal*, vol. i., p. 185.

On June 19 the modified Virginia plan, as adopted by the committee, was formally taken up for discussion by the house, each clause being debated anew. On the first resolution a debate immediately arose, Wilson declaring that a National government should not swallow up the States, while Hamilton said indefinite authority should be given the national government, for "if it were limited at all the rivalry of the States would gradually subvert it."* King said that the States, properly speaking, had never been sovereign.

"They did not possess the peculiar features of sovereignty, they could not make war, nor peace, nor alliances, nor treaties. Considering them as political Beings, they were dumb, for they could not speak to any foreign sovereign whatever. They were deaf, for they could not hear any propositions from such Sovereign. They had not even the organs or faculties of defence or offence for they could not of themselves raise troops or equip vessels, for war. On the other side, if the Union of the States comprises the idea of a confederation, it comprises that also of consolidation. A union of the States is a union of the men composing them from whence a national character results to the whole. * * * If the States, therefore, retained some portion of their sovereignty, they had certainly divested themselves of essential portions of it. If they formed a confederacy in some respects—they formed a Nation in others."†

At this time (June 20) the word "national" was dropped from the Randolph plan. This was done at the request of Ellsworth so that the resolution would read "that the government of the United States ought to

* Hunt's ed. of *Madison's Writings*, vol. iii., p. 221; Hunt, *Madison's Journal*, vol. i., p. 185.

† Hunt, *Madison's Journal*, vol. i., p. 186; Hunt's ed. of *Madison's Writings*, vol. iii., p. 221.

consist of a supreme Legislative, Executive and Judiciary." Ellsworth wished the plan "to go forth as an amendment of the Articles of the Confederation, since under this idea the authority of the Legislatures could ratify it." * Randolph said that he had no objection to the change of expression "but apprised the gentleman who wished for it that he did not admit it for the reasons assigned; particularly that of getting rid of a reference to the people for ratification." †

The question now came up as to whether or not there should be two branches of the legislature, and after a long discussion it was decided in favor of the dual system, the vote standing seven States (Massachusetts, Connecticut, Pennsylvania, Virginia, North Carolina, South Carolina, and Georgia) to three (New York, New Jersey, and Delaware) with Maryland divided. ‡ On June 21 General Pinckney moved that the representatives of the first branch be elected by the legislatures, but Wilson "considered the election of the first branch by the people not only as the Corner Stone but as the foundation of the fabric: and that the difference between a mediate and immediate

election was immense, * * * in this respect: that the Legislatures are actuated not merely by the sentiment of the people; but have an official sentiment opposed to that of the General Government and perhaps to that of the people themselves." It was therefore decided that the representatives should be elected by the people, the vote standing nine States in favor (Massachusetts, Connecticut, New York, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, and Georgia) one against (New Jersey) while Maryland was divided. * It had now been determined that the legislature should consist of two branches—the Senate and House of Representatives, and the question immediately arose as to the votes of the States in these branches. It was supposed that the interests of the larger States and the smaller States were diametrically opposed, the smaller States fearing that the larger States would not respect their rights. After some discussion the small State men consented that the number of members from each State in the House should be in proportion to the whole number of white or other free citizens in each, including those bound to service for a term of years, and three-fifths of all other persons. On June 29, therefore, when the vote was taken on this proposition, Massachusetts, Pennsylvania, Virginia, North Carolina, South Carolina, and Georgia

* Hunt, *Madison's Journal*, vol. i., p. 190.

† Hunt's ed. of *Madison's Writings*, vol. iii., p. 226; Hunt, *Madison's Journal*, p. 190.

‡ Elliot, *Debates*, vol. i., p. 184. See also Curtis, *Constitutional History*, vol. i., p. 397; McLaughlin, *The Confederation and the Constitution*, pp. 224-226. On the debates, see Hunt, *Madison's Journal*, vol. i., pp. 190-204.

* Hunt, *Madison's Journal*, vol. i., pp. 204-206.

voted in favor of proportional representation in the first branch, while Connecticut, New York, New Jersey, and Delaware voted in the negative, Maryland being divided.* But the small State men absolutely refused to agree to anything less than an equal representation in the Senate. When a vote was taken on June 25 on the question to agree "that the members of the second branch be chosen by the individual legislatures," it stood nine States (Massachusetts, Connecticut, New York, New Jersey, Delaware, Maryland, North Carolina, South Carolina, and Georgia) to two (Pennsylvania and Virginia).† The larger States were unwilling to allow this equality of representation in the Senate, and for some time the question hung in doubt.‡ On June 29 it was again moved by Mr. Ellsworth "that in the second branch, each State should have an equal vote." He said that on the whole he was not sorry that the Convention had decided in favor of unequal representation in the House, for that would allow the Convention to compromise by determining upon equal representation in the Senate, thus making the government partly national and partly federal.¶ The

small State men were determined that the States should have equal representation, but the large State men were equally determined. The debate was not long protracted, but was marked with an energy and warmth on both sides which revealed the nature of the perils then overhanging the unformed institutions whose existence now blesses the people of America. Ellsworth, Madison, Franklin, Baldwin, Wilson, and many others participated in the debate.* Wilson said he "hoped the alarms exceeded their cause," and that the Convention was too wise to "abandon a country to which they were bound by so many strong and endearing ties. But should the deplored event happen, it would neither stagger his sentiments nor his duty. If the minority of the people of America refuse to coalesce with the majority on just and proper principles, if a separation must take place it could never happen on better ground." Ellsworth said:

"The capital objection of Mr. Wilson 'that the minority will rule the majority' is not true. The power is given to the few to save them from being destroyed by the many. If an equality of votes had been given to them in both branches, the objection might have had weight. Is it a novel thing that a few should have a check on the many? Is it not the case in the British Constitution the wisdom of so many gentlemen have united in applauding? * * * No instance of a Confederacy has existed in which an equality of voices has not been exercised by the members of it. We are running from one extreme to the

* McLaughlin, *The Confederation and the Constitution*, pp. 227-229; Curtis, *Constitutional History*, vol. i., p. 400; Hunt, *Madison's Journal*, vol. i., p. 269.

† Hunt, *Madison's Journal*, vol. i., p. 236.

‡ See the various speeches in *ibid*, vol. i., pp. 248-268.

¶ Curtis, *Constitutional History*, vol. i., p. 402; Hunt, *Madison's Journal*, vol. i., p. 269.

* See Pitkin, *Political and Civil History of the United States*, vol. ii., pp. 233-245; Hunt, *Madison's Journal*, vol. i., p. 269 *et seq*.

† Hunt's ed. of *Madison's Writings*, vol. iii., p. 327; Hunt, *Madison's Journal*, vol. i., p. 273.

other. We are razing the foundations of the building when we need only repair the roof. No salutary measure has been lost for want of a majority of the States, to favor it. If security be all that the great States wish for, the first branch secures them. The danger of combinations among them is not imaginary. Altho' no particular abuses could be foreseen by him, the possibility of them would be sufficient to alarm him. Suppose that in pursuance of some commercial treaty or agreement, three or four free ports and no more were to be established, would not combinations be formed in favor of Boston, Philadelphia and some port of the Chesapeake? A like concert might be formed in the appointment of the great officers." *

Bedford of Delaware dared the larger States to do their worst, saying:

"We have been told with a dictatorial air that this is the last moment for a fair trial in favor of a Good Government. It will be the last indeed if the propositions reported from the committee go forth to the people. * * * The Large States dare not dissolve the Confederation. If they do the small ones will find some foreign ally of more honor and good faith who will take them by the hand and do them justice." †

On July 2 the question was taken on Mr. Ellsworth's motion, the vote resulting in a tie of five States against five, with one divided. Consequently, the motion was lost. Connecticut, New York, New Jersey, Delaware, and Maryland voted in the affirmative; Massachusetts, Pennsylvania, Virginia, North Carolina, and South Carolina voted in the negative, while Georgia was divided.‡ It seemed as though the Convention were now at a

stand-still and that it would be absolutely necessary to make some sort of a compromise. Luther Martin of Maryland declared that each State must have an equal vote, or that the business of the Convention was at an end. General Pinckney moved that a committee on the subject be appointed, which plan was seconded by Sherman, Gerry and others.* Gerry observed that "something must be done or we shall disappoint not only America but the whole world. * * * We must make concessions on both sides. Without these the Constitutions of the several States would never have been formed."† Wilson and Madison strongly protested that experience had taught them the utter usefulness of grand committees,‡ but Sherman said, "We are now at a full stop, and nobody * * * meant that we should break up without doing something."|| Consequently Pinckney's motion prevailed. But the minute the committee was appointed the large State party was doomed to defeat in its fight for proportional legislation in both branches, for not one of the really strong nationalists was appointed. The committee consisted of the following men: Gerry, of Massachusetts; Ellsworth, of Connecticut; Robert Yates, of New York; Patterson, of New Jersey; Franklin, of

* *Ibid*, vol. i., pp. 275-276.

† Hunt's ed. of Madison's *Writings*, vol. iii., p. 340; Hunt, Madison's *Journal*, vol. i., p. 284.

‡ Bancroft, vol. vi., pp. 239-253; Curtis, *Constitutional History*, vol. i., p. 403; Hunt, Madison's *Journal*, vol. i., p. 286.

* McMaster, *United States*, vol. i., p. 449; Hunt, Madison's *Journal*, vol. i., p. 287 *et seq.*

† Hunt, Madison's *Journal*, vol. i., p. 292.

‡ Hunt's ed. of Madison's *Writings*, vol. iii., pp. 334, 349, 350.

|| Hunt, Madison's *Journal*, vol. i., p. 287.

Pennsylvania; Bedford, of Delaware; Martin, of Maryland; Mason, of Virginia; William Davie, of North Carolina; Rutledge, of South Carolina; and Abraham Baldwin, of Georgia. The Convention then adjourned for three days (until July 5) while the committee was adjusting the differences.*

On July 5 the committee finally succeeded in reaching a compromise and reported to the Convention, recommending two propositions, on condition that both should be generally adopted. These propositions were:

1. That, in the first branch of the legislature, each of the States now in the Union shall be allowed one member for every forty thousand inhabitants of the description reported in the seventh resolution of the Committee of the whole House; that each State not containing that number shall be allowed one member; that all bills for raising or appropriating money, and for fixing the salaries of the officers of the government of the United States, shall originate in the first branch of the Legislature, and shall not be altered or amended by the second branch; and that no money shall be drawn from the public Treasury but in pursuance of appropriations to be originated in the first branch.

2. That, in the second branch, each State shall have an equal vote.†

To the House was given the power to raise and appropriate money, and to fix the salaries of the officials. On the question of vesting the House with exclusive power to raise and appropriate money and fix the salaries of officials, Connecticut, New Jersey,

Delaware, Maryland, and North Carolina voted in the affirmative; Pennsylvania, Virginia, and South Carolina in the negative, while Massachusetts, New York, and Georgia were divided.* A debate then arose as to just how the question had been decided, and by a vote of nine States (Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, North Carolina, South Carolina, and Georgia) against two (New York and Virginia), it was determined that the question had been decided in the affirmative.† On July 7 that part of the report of the committee recommending that each State have an equal vote in the Senate was adopted by a vote of six States (Connecticut, New York, New Jersey, Delaware, Maryland, and South Carolina) against three (Pennsylvania, Virginia, and South Carolina), while Massachusetts and Georgia were divided.‡ Meanwhile, on July 5, two of the New York delegates, Lausing and Yates, considering that the Convention was going far beyond its powers, returned home. Hamilton, however, the other New York delegate, remained to the close of the Convention and was one of the signers of the Constitution.

Disagreement was now put aside and a spirit of compromise took its place, for much was yet to be done in

* Bancroft, vol. vi., p. 254; Curtis, *Constitutional History*, vol. i., p. 405.

† Hunt, *Madison's Journal*, vol. i., pp. 293-295. On the adjustment of representation, see Bancroft, vol. vi., pp. 255-269.

* Hunt, *Madison's Journal*, vol. i., pp. 309-312.

† *Ibid.*, p. 313.

‡ Curtis, *Constitutional History*, vol. i., p. 407; Hunt, *Madison's Journal*, vol. i., p. 314.

whipping the minor provisions into proper shape. The small State men discontinued their obstructive tactics. Lansing and Yates had gone home and some of the most obstreperous of the early debaters remained silent. Little by little as the debates went on the principle of the government became more clear and the relation between the State and National governments better defined, so that there would be the least possibility of friction between them and no necessity for the coercion of the States on the part of the National government. As Madison later said:

"It was generally agreed that the objects of the Union could not be secured by any system founded on the principle of a confederation of Sovereign States. A voluntary observance of the federal law by all the members could never be hoped for. A compulsive one could evidently never be reduced to practice, and if it could, involved equal calamities to the innocent and the guilty, the necessity of a military force, both obnoxious and dangerous, and, in general, a scene resembling much more a civil war than the administration of a regular Government. Hence was embraced the alternative of a Government which, instead of operating on the States, should operate without their intervention on the individuals composing them; and hence the change in the principle and proportion of representation."

The scale of apportionment of representatives recommended by the committee also came in for its share of opposition, it being urged that the circumstances did not require a mere representation of persons, but that property also ought to be considered to obtain a just index of the relative rank of the States. The argument was advanced that if population alone were considered, the new Western

States would not only equal but in all probability would soon outnumber the Atlantic States, and thus the latter would forever be in a minority. A new committee of five members (Gouverneur Morris, Gorham, Randolph, Rutledge, and King) was then appointed,* who proposed that the first House of Representatives should consist of fifty-six members,† basing the distribution upon the present condition of the various States, though the legislature was to be empowered, as circumstances might require, to increase the number from time to time, and base the representation upon a combined ratio of their wealth and the number of their inhabitants.‡ The latter part of this proposition was adopted by a vote of nine States (Massachusetts, Connecticut, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina and Georgia) against two (New York and New Jersey),|| but the apportionment was changed, sixty-five members being allowed to the first meeting of the legislature.§

* Hunt, *Madison's Journal*, vol. i., pp. 305-307.

† New Hampshire, 2; Massachusetts, 7; Rhode Island, 1; Connecticut, 4; New York, 5; New Jersey, 3; Pennsylvania, 8; Delaware, 1; Maryland, 4; Virginia, 9; North Carolina, 5; South Carolina, 5; Georgia, 2.—Hunt, *Madison's Journal*, vol. i., p. 318.

‡ Curtis, *Constitutional History*, vol. i., p. 407; Hunt, *Madison's Journal*, vol. i., pp. 318-319.

|| Hunt, *Madison's Journal*, vol. i., pp. 319-320.

§ New Hampshire, 3; Massachusetts, 8; Rhode Island, 1; Connecticut, 5; New York, 6; New Jersey, 4; Pennsylvania, 8; Delaware, 1; Maryland, 6; Virginia, 10; North Carolina, 5; South Carolina, 5; Georgia, 3.—Hunt, *Madison's Journal*, vol. i., p. 322.

This was sanctioned by a large vote of the States (Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and North Carolina in the affirmative, and South Carolina and Georgia in the negative), after it had been referred for a second time to a committee of one member from each State, consisting of King, Sherman, Yates, Brearly, Gouverneur Morris, Read, Carroll, Madison, Williamson, Rutledge, and Honston.*

The old sore of representation, however, was still open, and whenever the question arose difficulties disclosed themselves. The principal difficulty was to agree on the general basis of representation—as to whether or not it should depend upon population alone. So far the Convention had twice affirmed the propriety of counting the slaves, if the States were to be represented according to the numbers of their inhabitants, and the slave-holding States had expressed no dissatisfaction with the old proportion of three-fifths. But the idea was now advanced that the wealth of a State could not be measured by its inhabitants and that wealth should largely enter into consideration when a proportionment of representation was made: the States most heavily taxed should have a proportionate influence in the govern-

ment.* The Northern men did not see the justice of including the slaves in a computation of the population, while the Southerners were equally determined that they should be counted, Pierce Butler and C. C. Pinckney being particularly insistent.† “Has a man in Virginia a number of votes in proportion to the number of his slaves? And if negroes are not represented in the States to which they belong, why should they be represented in the general government? * * * If a meeting of the people were to take place in a slave state, would the slaves vote? They would not. Why then should they be represented in a federal government?” Gouverneur Morris said: “I can never agree to give such encouragement to the slave-trade as would be given by allowing the Southern States a representation for their negroes. * * * I would sooner submit myself to a tax for paying for all the negroes in the United States than saddle posterity with such a constitution.”‡

The North also feared that the West and Southwest would some time have sufficient population to overthrow the power of the East in Congress, Gouverneur Morris saying

* Curtis, *Constitutional History*, vol. i., p. 408.

† Fiske, *Critical Period*, p. 258. As Madison said: “It seemed now to be pretty well understood, that the real difference of interest lay, not between the large and small, but between the Northern and Southern States. The institution of slavery and its consequences formed the line of discrimination.”—Gay, *Life of Madison*, pp. 103–104.

‡ Fiske, p. 259.

* Curtis, *Constitutional History*, vol. i., pp. 407–408; Hunt, *Madison's Journal*, vol. i., pp. 322–327.

that "the Busy haunts of men not the remote wilderness, was the proper school of political talents. If the western people get the power into their hands, they will ruin the Atlantic interests. The Back members are always most averse to the best measures."* Wilson, however, said:

"The majority of people wherever found ought on all questions to govern the minority. If the interior Country should acquire this majority, it will not only have the right but will avail itself of it whether we will or no. This jealousy misled the policy of Great Britain with regard to America. The fatal maxims espoused by her were that the Colonies were growing too fast, and that their growth must be stunted in time. What were the consequences? First, enmity on our part, then actual separation. Like consequences will result on the part of the interior settlements, if like jealousy and policy be pursued on ours."†

Still there were graver objections to this combined rule of numbers and wealth as applied to the slave-holding States. In the first place, it was very vague; it left the question as to whether slaves should be regarded as persons or as property wholly undetermined, to be settled by the legislature at every revision of the system. Also, while the Atlantic States might be able to dominate the Western States, at least for a long time to come, the Northern States would also be able to control the government as against the Southern interests, for by the proposed apportionment the

States that held few or no slaves would have thirty-six members, while the slave States would have only twenty-nine. In stating the objections of Virginia to the scheme, Mason and Randolph said that, while according to the present population the North would justly predominate in the legislature, it might not always be thus and that a definite rule ought to be established at once for determining the proportions.* Gouverneur Morris said that the combined principles of numbers and wealth were a sufficient rule which could be executed and would also obviate the necessity of a distinct and special admission of the slaves into the census.† Williamson of North Carolina, on July 11, made a motion that numbers alone be considered, his proposition providing for a periodical census of the free white inhabitants and of three-fifths of all other persons and that the representation be regulated accordingly.‡ But South Carolina and Georgia desired that the blacks should be included in the census equally with whites and when it came to a vote these two States were supported by Maryland and Delaware, six States voting in the affirmative (Massachusetts, Connecticut, New Jersey, Pennsylvania, Virginia, and North Carolina).|| It now be-

* Hunt, *Madison's Journal*, vol. i., p. 338.

† Curtis, *Constitutional History*, vol. i., p. 409.

‡ Hunt, *Madison's Journal*, vol. i., p. 330.

|| Hunt's ed. of *Madison's Writings*, vol. iii., p. 397; Elliot, *Debates*, vol. i., p. 199; Thorpe, *Story of the Constitution*, pp. 128-131; Curtis, *Con-*

* Hunt's ed. of *Madison's Writings*, vol. iii., pp. 401, 402; Hunt, *Madison's Journal*, vol. i., p. 335.

† Hunt, *Madison's Journal*, vol. i., p. 352; Hunt's ed. of *Madison's Writings*, vol. iii., p. 223.

came necessary to decide whether the slaves should be counted as persons, and in the proportion of the three-fifths in the census for the future apportionment of representatives among the States. Massachusetts and Pennsylvania split with Virginia on this proposition, and it was decided to be unfair to place the slave in the same category with the freeman for purposes of representation when he had no voice in the appointment of the representative. This proposition was lost by a vote of six States (Massachusetts, New Jersey, Pennsylvania, Delaware, Maryland, and South Carolina) to four (Connecticut, Virginia, North Carolina, and Georgia), and so Williamson's whole substitute—numerical representation in place of a combination of numbers and wealth—was lost.*

In endeavoring to apply the combined rule of numbers and wealth, an old and important doctrine was brought into view—that “taxation and representation ought to go together.” Gouverneur Morris said that if the legislatures were empowered to vary the representation according to the principle of wealth and numbers, a proviso should be added that “taxation shall be in proportion to representation,”† or in other words, if the South should in-

sist upon counting in her slaves as a basis of representation because they created wealth, they should be willing to pay taxes accordingly. Mason, however, pointed out that customs duties and similar levies could not be proportioned thus and Congress might be compelled to resort to requisitions. The resolution was therefore changed so that it applied to direct taxation alone.* Davie of North Carolina then entered the lists with a threat that North Carolina would never enter the Union unless three-fifths of her slaves were counted.† Wilson thereupon proposed an arrangement to compromise the matter, which consisted first in affirming that representation ought to be proportioned according to direct taxation; second, that a periodical census of the free inhabitants and three-fifths of all other persons should be taken; and third, that this census should constitute the basis for direct taxation.‡ This proposition was adopted, July 12, by a vote of six States (Connecticut, Pennsylvania, Maryland, Virginia, North Carolina, and Georgia) to two (New Jersey and Delaware) with Massachusetts and South Carolina divided.|| While Wilson accepted this result because

stitutional History, vol. i., p. 410; Hunt, *Madison's Journal*, vol. i., p. 338.

* Curtis, *Constitutional History*, vol. i., p. 411; Hunt, *Madison's Journal*, vol. i., p. 340.

† Hunt's ed. of *Madison's Writings*, vol. iii., p. 409; Hunt, *Madison's Journal*, vol. i., p. 341.

* Elliot, *Debates*, vol. i., p. 202; Hunt's ed. of *Madison's Writings*, vol. iii., p. 411.

† Hunt, *Madison's Journal*, vol. i., p. 342.

‡ *Ibid.*, p. 345.

|| Elliot, *Debates*, vol. i., pp. 202–203; Thorpe, *Story of the Constitution*, pp. 131–132; Curtis, *Constitutional History*, vol. i., pp. 416–418; Hunt, *Madison's Journal*, vol. i., p. 347.

of the "necessity of compromise," he said that if the slaves were admitted as citizens, why were they not admitted "on an equality with the white citizens? are they admitted as property? then why is not other property admitted into the computation?"*

Representation in the Senate (or the second branch) was then taken under consideration. Randolph, Madison, King, and Wilson opposed an equality of votes on the ground that the government was to act upon the people and not upon the States, and that therefore the people and not the States should be represented in every branch of the government. Despite their opposition, however, equality of votes in the Senate was adopted, July 16, by a majority of the States present, Connecticut, New Jersey, Delaware, Maryland, and North Carolina (Mr. Straight *no*) voting in the affirmative, and Pennsylvania, Virginia, South Carolina, and Georgia in the negative, while Massachusetts was divided (Gerry and Strong in the affirmative and King and Gorham in the negative).† The New York delegates were absent, Yates and Lansing having gone home, while Hamilton was absent on personal business.‡ The large State men were loath to admit defeat, and even the next morning after the vote had been taken, they held a caucus to determine whether

they should acquiesce in the verdict, or, relying on the justice of the cause, persist in opposing the measure and frame a constitution of their own. But no conclusion as to the proper course of action was reached at this meeting, and the work of the Convention went on as usual.*

The other matters contained in the report of the committee were now rapidly agreed upon. It was determined that the legislative acts and treaties of the United States should be the supreme law of the land and binding upon the judiciaries of the several States. It had already been determined that the executive should be a single person, chosen for seven years by the national legislature, ineligible for a second term; that he should have power to carry into execution the national laws, to appoint officers not otherwise provided for; that he should be removable on impeachment and should be paid by a fixed stipend out of the national treasury. A debate again sprang up regarding the manner of electing the President and his term of office, as it was felt that he might become the tool of the legislature if chosen by that body.† It was originally proposed to limit him to one term‡ but this was seen to operate both ways,

* Hunt's ed. of Madison's *Writings*, vol. iii., p. 407.

† Hunt, Madison's *Journal*, vol. i., pp. 364-365.

‡ Curtis, *Constitutional History*, vol. i., p. 418.

* McLaughlin, *The Confederation and the Constitution*, p. 239; Curtis, *Constitutional History*, vol. i., pp. 418-419; Hunt, Madison's *Journal*, vol. i., pp. 369-370.

† Hunt, Madison's *Journal*, vol. i., pp. 108, 374-375, vol. ii., p. 3.

‡ *Ibid*, vol. i., p. 65.

for if a good executive were elected, the desire would be general to retain him in office, whereas, on the other hand, a bad executive could easily be rejected. Ineligibility was then stricken out. As the right of suffrage was differently regulated in the different States, it was seen that a popular election would not do. Wilson said: "he was almost unwilling to declare the mode which he wished to take place, being apprehensive that it might appear chimerical. He would say, however, at least, that in theory he was for an election by the people. Experience, particularly in New York and Massachusetts, showed that an election of the first magistrate by the people at large was both a convenient and successful mode. The objects of choice in such cases must be persons whose merits have general notoriety." * Sherman, Strong, Mason, and Rutledge favored election by the legislature, while Gouverneur Morris, Gerry, Madison, and Washington disapproved of this. Mason said that "to refer the choice of a proper character for the chief magistrate to the people would be as unnatural as to refer a trial of colors to a blind man." † On July 19 Gerry said: "If the Executive is to be elected by the Legislature, he certainly ought not to be ineligible. This would make him absolutely dependent." But he said he was against popular elections.

"The people are uninformed and would be misled by a few designing men. * * * The popular mode of electing the chief magistrate would certainly be the worst of all. If he should be so elected and should do his duty, he would be turned out for it like Governor Bowdoin in Massachusetts and President Sullivan in New Hampshire." * To obviate these difficulties it was then proposed by Ellsworth and King to appoint electors in each State who should vote for the President in accordance with the mandates of the people at popular elections, but it was said that the candidate might corrupt these electors, and on July 26, after much argument, the original term of seven years with ineligibility was decided upon and sent to the committee of detail. ‡ New Hampshire, Connecticut, New Jersey, North Carolina, South Carolina, and Georgia voted in the affirmative and Pennsylvania and Delaware in the negative. Massachusetts was not on the floor and Virginia was divided, Blair and Mason voting in the affirmative, while Washington and Madison voted in the negative.

It was decided that "a republican form of government shall be guaranteed to each State and that each State shall be protected against foreign and domestic violence"; that in the na-

* *Ibid*, vol. ii., p. 7. See also his speech of July 25, in *ibid*, pp. 54-55.

† Curtis, *Constitutional History*, vol. i., pp. 422-426; Hunt, *Madison's Journal*, vol. i., p. 378 *et seq.*, vol. ii., pp. 8 *et seq.*, 40, 47, 48-59, gives the votes on the various clauses.

* *Ibid*, pp. 53-54; also pp. 375-376.

† Fiske, *Critical Period*, p. 279; Hunt, *Madison's Journal*, vol. i., p. 377.

tional legislature should be vested the power to appoint inferior judicial tribunals; and that all legislative, executive and judicial officers of the State and also the officers of the national government should be bound by oath to support the Articles of the Union.* Regarding the method of ratification there was some debate—whether the State governments were competent in themselves to do this, or whether it would be necessary to submit the Constitution directly to the people, acting through representative bodies expressly chosen for the purpose, but finally the latter course was determined upon, Delaware being the only State to vote in the negative, while Massachusetts, New Hampshire, Connecticut, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, and Georgia voted in the affirmative.† It was now agreed that the Senate should consist of two members from each State and that they should vote *per capita*, Maryland being the only State that objected to this arrangement, chiefly through the efforts of Luther Martin.‡ The committee of detail were instructed to incorporate some provision for a property qualification for those holding office.|| On July 26, therefore, the articles agreed to and elaborated by the Convention, to-

gether with the propositions offered by Charles Pinckney on May 29 and those offered by Patterson on June 15, were referred to a committee of detail consisting of John Rutledge, Edmund Randolph, Nathaniel Gorham, Oliver Ellsworth, and James Wilson, to report a draft of a constitution. The House then adjourned. The twenty-three resolutions referred to this committee were as follows:

1. *Resolved*, That the government of the United States ought to consist of a supreme legislative, judiciary, and executive.

2. *Resolved*, That the legislature consist of two branches.

3. *Resolved*, That the members of the first branch of the legislature ought to be elected by the people of the several states for the term of two years; to be paid out of the public treasury; to receive an adequate compensation for their services; to be of the age of twenty-five years at least; to be ineligible to, and incapable of holding, any office under the authority of the United States (except those peculiarly belonging to the functions of the first branch) during the term of service of the first branch.

4. *Resolved*, That the members of the second branch of the legislature of the United States ought to be chosen by the individual legislatures; to be of the age of thirty years at least; to hold their offices for six years, one third to go out biennially; to receive a compensation for the devotion of their time to the public service; to be ineligible to, and incapable of holding, any office under the authority of the United States (except those peculiarly belonging to the functions of the second branch) during the term for which they are elected, and for one year thereafter.

5. *Resolved*, That each branch ought to possess the right of originating acts.

6. *Resolved*, That the national legislature ought to possess the legislative rights vested in Congress by the Confederation; and, moreover, to legislate in all cases for the general interests of the Union, and also in those to which the states are separately incompetent, or in which the harmony of the United States may be interrupted by the exercise of individual legislation.

7. *Resolved*, That the legislative acts of the United States, made by virtue and in pursuance

* *Ibid*, vol. i., pp. 384–392.

† *Ibid*, vol. ii., pp. 31–37; Curtis, *Constitutional History*, vol. i., pp. 427–431.

‡ Hunt, *Madison's Journal*, vol. ii., pp. 37–39.

|| *Ibid*, vol. ii., p. 59 *et seq.*

of the Articles of Union, and all treaties made and ratified under the authority of the United States, shall be the supreme law of the respective states, as far as those acts or treaties shall relate to the said states, or their citizens and inhabitants; and that the judiciaries of the several states shall be bound thereby in their decisions, anything in the respective laws of the individual states to the contrary notwithstanding.

8. *Resolved*, That, in the general formation of the legislature of the United States, the first branch thereof shall consist of sixty-five members; of which number,

New Hampshire shall send 3; Massachusetts, 8; Rhode Island, 1; Connecticut, 5; New York, 6; New Jersey, 4; Pennsylvania, 8; Delaware, 1; Maryland, 6; Virginia, 10; North Carolina, 5; South Carolina, 5; Georgia, 3.

But, as the present situation of the states may probably alter in the number of their inhabitants, the legislature of the United States shall be authorized, from time to time, to apportion the number of representatives; and in case any of the states shall hereafter be divided, or enlarged by addition of territory, or any two or more states united, or any new states created within the limits of the United States, the legislature of the United States shall possess authority to regulate the number of representatives, in any of the foregoing cases, upon the principle of their number of inhabitants, according to the provisions hereafter mentioned, namely—Provided always, that representation ought to be proportioned to direct taxation. And, in order to ascertain the alteration in the direct taxation which may be required from time to time, by the changes in the relative circumstances of the states,—

9. *Resolved*, That a census be taken within six years from the first meeting of the legislature of the United States, and once within the term of every ten years afterwards, of all the inhabitants of the United States, in the manner and according to the ratio recommended by Congress in their resolution of the 18th of April, 1783; and that the legislature of the United States shall proportion the direct taxation accordingly.

10. *Resolved*, That all bills for raising or appropriating money, and for fixing the salaries of the officers of the government of the United States, shall originate in the first branch of the legislature of the United States, and shall not be altered or amended by the second branch; and that no money shall be drawn from the public treasury but in pursuance of appropriations to be originated by the first branch.

11. *Resolved*, That, in the second branch of the legislature of the United States, each state shall have an equal vote.

12. *Resolved*, That a national executive be instituted, to consist of a single person; to be chosen by the national legislature for the term of seven years; to be ineligible a second time; with power to carry into execution the national laws; to appoint to offices in cases not otherwise provided for; to be removable on impeachment, and conviction of malpractice or neglect of duty; to receive a fixed compensation for the devotion of his time to the public service, to be paid out of the public treasury.

13. *Resolved*, That the national executive shall have a right to negative any legislative act; which shall not be afterwards passed, unless by two thirds part of each branch of the national legislature.

14. *Resolved*, That a national judiciary be established, to consist of one supreme tribunal, the judges of which shall be appointed by the second branch of the national legislature; to hold their offices during good behaviour; to receive punctually, at stated times, a fixed compensation for their services, in which no diminution shall be made so as to affect the persons actually in office at the time of such diminution.

15. *Resolved*, That the national legislature be empowered to appoint inferior tribunals.

16. *Resolved*, That the jurisdiction of the national judiciary shall extend to cases arising under laws passed by the general legislature, and to such other questions as involve the national peace and harmony.

17. *Resolved*, That provisions ought to be made for the admission of states lawfully arising within the limits of the United States, whether from a voluntary junction of government and territory, or otherwise, with the consent of a number of voices in the national legislature less than the whole.

18. *Resolved*, That a republican form of government shall be guaranteed to each state; and that each state shall be protected against foreign and domestic violence.

19. *Resolved*, That provision ought to be made for the amendment of the Articles of Union, whensoever it shall seem necessary.

20. *Resolved*, That the legislative, executive, and judiciary powers, within the several states, and of the national government, ought to be bound, by oath, to support the Articles of Union.

21. *Resolved*, That the amendments which shall be offered to the Confederation by the Convention ought, at a proper time or times, after the appro-

bation of Congress, to be submitted to an assembly, or assemblies, of representatives, recommended by the several legislatures, to be expressly chosen by the people to consider and decide thereon.

22. *Resolved*, That the representation in the second branch of the legislature of the United States shall consist of two members from each state, who shall vote *per capita*.

23. *Resolved*, That it be an instruction to the committee to whom were referred the proceedings of the Convention for the establishment of a national government, to receive a clause, or clauses, requiring certain qualifications of property and citizenship in the United States for the executive, the judiciary, and the members of both branches of the legislature of the United States.*

On August 6 the committee of detail rendered its report in the shape of a constitution divided into twenty-three articles, as follows:

We, the people of the states of New Hampshire, Massachusetts, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, do ordain, declare, and establish, the following Constitution for the government of ourselves and our posterity:—

Article I. The style of the government shall be, "The United States of America."

Article II. The government shall consist of supreme legislative, executive, and judicial powers.

Article III. The legislative power shall be vested in a Congress, to consist of two separate and distinct bodies of men, a House of Representatives and a Senate; each of which shall in all cases have a negative on the other. The legislature shall meet on the first Monday in December in every year.

Article IV, Sect. 1. The members of the House of Representatives shall be chosen, every second year, by the people of the several states comprehended within this Union. The qualifications of the electors shall be the same, from time to time, as those of the electors, in the several states, of the most numerous branch of their own legislatures.

Sect. 2. Every member of the House of Representatives shall be of the age of twenty-five years at least; shall have been a citizen in the United States for at least three years before his election; and shall be, at the time of his election, a resident of the state in which he shall be chosen.

Sect. 3. The House of Representatives shall, at its first formation, and until the number of citizens and inhabitants shall be taken in the manner hereinafter described, consist of sixty-five members, of whom three shall be chosen in New Hampshire, eight in Massachusetts, one in Rhode Island and Providence Plantations, five in Connecticut, six in New York, four in New Jersey, eight in Pennsylvania, one in Delaware, six in Maryland, ten in Virginia, five in North Carolina, five in South Carolina, and three in Georgia.

Sect. 4. As the proportions of numbers in different states will alter from time to time; as some of the states may hereafter be divided; as others may be enlarged by addition of territory; as two or more states may be united; as new states will be erected within the limits of the United States,—the legislature shall, in each of these cases, regulate the number of representatives by the number of inhabitants, according to the provisions hereinafter made, at the rate of one for every forty thousand.

Sect. 5. All bills for raising or appropriating money, and for fixing the salaries of the officers of government, shall originate in the House of Representatives, and shall not be altered or amended by the Senate. No money shall be drawn from the public treasury but in pursuance of appropriations that shall originate in the House of Representatives.

Sect. 6. The House of Representatives shall have the sole power of impeachment. It shall choose its Speaker and other officers.

Sect. 7. Vacancies in the House of Representatives shall be supplied by writs of election from the executive authority of the state in the representation from which they shall happen.

Article V, Sect. 1. The Senate of the United States shall be chosen by the legislatures of the several states. Each legislature shall choose two members. Vacancies may be supplied by the executive until the next meeting of the legislature. Each member shall have one vote.

Sect. 2. The senators shall be chosen for six years; but immediately after the first election, they shall be divided, by lot, into three classes, as nearly as may be, numbered one, two, and three. The seats of the members of the first class shall be vacated at the expiration of the second year; of the second class at the expiration of the fourth

* See Taylor, *Origin and Growth of the American Constitution*, App. xvi.; Curtis, *Constitutional History*, vol. i., pp. 435–437; Hunt, *Madison's Journal*, vol. ii., pp. 67–74.

year; of the third class at the expiration of the sixth year; so that a third part of the members may be chosen every second year.

Sect. 3. Every member of the Senate shall be of the age of thirty years at least; shall have been a citizen of the United States for at least four years before his election; and shall be, at the time of his election, a resident of the state for which he shall be chosen.

Sect. 4. The Senate shall choose its own President, and other officers.

Article VI, Sect. 1. The times, and places, and manner, of holding the elections of the members of each House, shall be prescribed by the Legislature of each state; but their provisions concerning them may, at any time, be altered by the legislature of the United States.

Sect. 2. The legislature of the United States shall have authority to establish such uniform qualifications of the members of each House, with regard to property, as to the said legislature shall seem expedient.

Sect. 3. In each House a majority of the members shall constitute a quorum to do business; but a smaller number may adjourn from day to day.

Sect. 4. Each House shall be the judge of the elections, returns, and qualifications, of its own members.

Sect. 5. Freedom of speech and debate in the legislature shall not be impeached or questioned in any court or place out of the legislature; and the members of each House shall, in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at Congress, and in going to and returning from it.

Sect. 6. Each House may determine the rules of its proceedings; may punish its members for disorderly behaviour; and may expel a member.

Sect. 7. The House of Representatives, and the Senate when it shall be acting in a legislative capacity, shall keep a journal of their proceedings; and shall, from time to time, publish them; and the yeas and nays of the members of each House, on any question, shall, at the desire of one fifth part of the members present, be entered on the Journal.

Sect. 8. Neither House, without the consent of the other, shall adjourn for more than three days, nor to any other place than that at which the two Houses are sitting. But this regulation shall not extend to the Senate when it shall exercise the powers mentioned in the Article.

Sect. 9. The members of each House shall be ineligible to, and incapable of holding, any office

under the authority of the United States, during the time for which they shall respectively be elected; and the members of the Senate shall be ineligible to, and incapable of holding, any such office for one year afterwards.

Sect. 10. The members of each House shall receive a compensation for their services, to be ascertained and paid by the state in which they shall be chosen.

Sect. 11. The enacting style of the laws of the United States shall be, "Be it enacted, and it is hereby enacted, by the House of Representatives, and by the Senate, of the United States, in Congress assembled."

Sect. 12. Each House shall possess the right of originating bills, except in the cases before mentioned.

Sect. 13. Every bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a law, be presented to the President of the United States for his revision. If, upon such revision, he approve of it, he shall signify his approbation by signing it. But if, upon such revision, it shall appear to him improper for being passed into a law, he shall return it, together with his objections against it, to that House in which it shall have originated; who shall enter the objections at large on their Journal, and proceed to reconsider the bill. But if, after such reconsideration, two thirds of that House shall, notwithstanding the objections of the President, agree to pass it, it shall, together with his objections, be sent to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of the other House also, it shall become a law. But, in all such cases, the votes of both houses shall be determined by yeas and nays; and the names of the persons voting for and against the bill shall be entered on the Journal of each House respectively. If any bill shall not be returned by the President within seven days after it shall have been presented to him, it shall be a law, unless the legislature, by their adjournment, prevent its return, in which case it shall not be a law.

Article VIII, Sect. 1. The legislature of the United States shall have the power to lay and collect taxes, duties, imposts, and excises;

To regulate commerce with foreign nations, and among the several states;

To establish a uniform rule of naturalization throughout the United States;

To coin money;

To regulate the value of foreign coins;

To fix the standard of weights and measures;

To establish post-offices;

To borrow money, and emit bills, on the credit of the United States;

To appoint a treasurer by ballot;

To constitute tribunals inferior to the supreme court;

To make rules concerning captures on land and water;

To declare the law and punishment of piracies and felonies committed on the high seas, and the punishment of counterfeiting the coin of the United States, and of offences against the law of nations;

To subdue a rebellion in any state, on the application of its legislature;

To make war;

To raise armies;

To build and equip fleets;

To call forth the aid of the militia, in order to execute the laws of the Union, enforce treaties, suppress insurrections, and repel invasions;

And to make all laws that shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

Sect. 2. Treason against the United States shall consist only in levying war against the United States, or any of them; and in adhering to the enemies of the United States, or any of them. The legislature of the United States shall have power to declare the punishment of treason. No person shall be convicted of treason, unless on the testimony of two witnesses. No attainder of treason shall work corruption of blood, nor forfeiture, except during the life of the person attainted.

Sect. 3. The proportions of direct taxation shall be regulated by the whole number of white and other free citizens and inhabitants of every age, sex, and condition, including those bound to servitude for a term of years, and three fifths of all other persons not comprehended in the foregoing description (except Indians not paying taxes); which number shall, within six years after the first meeting of the legislature, and within the term of every ten years afterwards, be taken in such a manner as the said legislature shall direct.

Sect. 4. No tax or duty shall be laid by the legislature on articles exported from any state; nor on the migration or importation of such persons as the several states shall think proper to admit; nor shall such migration or importation be prohibited.

Sect. 5. No capitation tax shall be laid, unless in proportion to the census hereinbefore directed to be taken.

Sect. 6. No navigation act shall be passed without the assent of two thirds of the members present in each House.

Sect. 7. The United States shall not grant any title of nobility.

Article VIII. The acts of the legislature of the United States made in pursuance of this Constitution, and all treaties made under the authority of the United States, shall be the supreme law of the several states, and of their citizens and inhabitants; and the judges in the several states shall be bound thereby in their decisions, anything in the constitutions or laws of the several states to the contrary notwithstanding.

Article IX, Sect. 1. The Senate of the United States shall have power to make treaties, and to appoint ambassadors, and judges of the supreme court.

Sect. 2. In all disputes and controversies now subsisting, or that may hereafter subsist, between two or more states, respecting jurisdiction or territory, the Senate shall possess the following powers:—Whenever the legislature, or the executive authority, or lawful agent of any state, in controversy with another, shall, by memorial to the Senate, state the matter in question, and apply for a hearing, notice of such memorial and application shall be given, by order of the Senate, to the legislature, or the executive authority, of the other state in controversy. The Senate shall also assign a day for the appearance of the parties, by their agents, before that House. The agents shall be directed to appoint, by joint consent, commissioners or judges to constitute a court for hearing and determining the matter in question. But if the agents cannot agree, the Senate shall name three persons out of each of the several states; and from the list of such persons, each party shall alternately strike out one, until the number shall be reduced to thirteen; and from that number not less than seven, nor more than nine, names, as the Senate shall direct, shall, in their presence, be drawn out by lot; and the persons whose names shall be so drawn, or any five of them, shall be commissioners or judges to hear and finally determine the controversy; provided a majority of the judges who shall hear the cause agree in the determination. If either party shall neglect to attend at the day assigned, without showing sufficient reasons for not attending, or being present shall refuse to strike, the Senate shall proceed to nominate three persons out of each state, and the clerk of the Senate shall strike in behalf of the party absent or refusing. If any of the parties shall refuse to submit to the authority of such court, or shall not appear to

prosecute or defend their claim or cause, the court shall nevertheless proceed to pronounce judgment. The judgment shall be final and conclusive. The proceedings shall be transmitted to the President of the Senate, and shall be lodged among the public records, for the security of the parties concerned. Every commissioner shall, before he sit in judgment, take an oath, to be administered by one of the judges of the supreme or superior court of the state where the cause shall be tried, "well and truly to hear and determine the matter in question, according to the best of his judgment, without favour, affection, or hope of reward."

Sect. 3. All controversies concerning lands claimed under different grants of two or more states, whose jurisdictions, as they respect such lands, shall have been decided or adjusted subsequently to such grants, or any of them, shall, on application to the Senate, be finally determined, as near as may be, in the same manner as is before prescribed for deciding controversies between different states.

Article X, Sect. 1. The executive power of the United States shall be vested in a single person. His style shall be, "The President of the United States of America," and his title shall be, "His Excellency." He shall be elected by ballot by the legislature. He shall hold his office during the term of seven years; but shall not be elected a second time.

Sect. 2. He shall, from time to time, give information to the legislature of the state of the Union. He may recommend to their consideration such measures as he shall judge necessary and expedient. He may convene them on extraordinary occasions. In case of disagreement between the two Houses, with regard to the time of adjournment, he may adjourn them to such time as he thinks proper. He shall take care that the laws of the United States be duly and faithfully executed. He shall commission all officers of the United States; and shall appoint officers in all cases not otherwise provided for by this Constitution. He shall receive ambassadors, and may correspond with the supreme executives of the several states. He shall have power to grant reprieves and pardons, but his pardon shall not be pleadable in bar of an impeachment. He shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states. He shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during his continuance in office. Before he shall enter on the duties of his department, he shall take the following oath

or affirmation. "I solemnly swear (or affirm) that I will faithfully execute the office of the President of the United States of America." He shall be removed from his office on impeachment by the House of Representatives, and conviction, in the supreme court, of treason, bribery, or corruption. In case of his removal, as aforesaid, death, resignation, or disability to discharge the powers and duties of his office, the President of the Senate shall exercise those powers and duties until another President of the United States be chosen, or until the disability of the President be removed.

Article XI, Sect. 1. The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as shall, when necessary, from time to time, be constituted by the legislature of the United States.

Sect. 2. The judges of the supreme court, and of the inferior courts, shall hold their offices during good behaviour. They shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

Sect. 3. The jurisdiction of the supreme court shall extend to all cases arising under laws passed by the legislature of the United States; to all cases affecting ambassadors, other public ministers, and consuls; to the trial of impeachments of officers of the United States; to all cases of admiralty and maritime jurisdiction; to controversies between two or more states (except such as shall regard territory or jurisdiction); between a state and the citizens of another state; between citizens of different states; and between a state or the citizens thereof, and foreign states, citizens, or subjects. In cases of impeachment, cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, this jurisdiction shall be original. In all the other cases before mentioned, it shall be appellate, with such exceptions, and under such regulations, as the legislature shall make. The legislature may assign any part of the jurisdiction above mentioned (except the trial of the President of the United States), in the manner and under the limitations which it shall think proper, to such inferior courts as it shall constitute from time to time.

Sect. 4. The trial of all criminal offences (except in cases of impeachment) shall be in the state where they shall be committed; and shall be by jury.

Sect. 5. Judgment, in cases of impeachment, shall not extend further than to removal from office, and disqualification to hold and enjoy any

office of honour, trust, or profit, under the United States. But the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law.

Article XII. No state shall coin money; nor grant letters of marque and reprisal; nor enter into any treaty, alliance, or confederation; nor grant any title of nobility.

Article XIII. No state, without the consent of the legislature of the United States, shall emit bills of credit, or make anything but specie a tender in payment of debts; nor lay imposts or duties on imports; nor keep troops or ships of war in time of peace; nor enter into any agreement or compact with another state, or with any foreign power; nor engage in any war, unless it shall be actually invaded by enemies, or the danger of invasion be so imminent as not to admit of a delay until the legislature of the United States can be consulted.

Article XIV. The citizens of each state shall be entitled to all the privileges and immunities of citizens in the several states.

Article XV. Any person charged with treason, felony, or high misdemeanor in any state, who shall flee from justice, and shall be found in any other state, shall, on demand of the executive power of the state from which he fled, be delivered up and removed to the state having jurisdiction of the offence.

Article XVI. Full faith shall be given in each state to the acts of the legislatures, and to the records and judicial proceedings of the courts and magistrates of every other state.

Article XVII. New states lawfully constituted or established within the limits of the United States may be admitted, by the legislature, into this government; but to such admission the consent of two thirds of the members present in each House shall be necessary. If a new state shall arise within the limits of any of the present states, the consent of the legislatures of such states shall be also necessary to its admission. If the admission be consented to, the new states shall be admitted on the same terms with the original states. But the legislature may make conditions with the new states concerning the public debt which shall be then subsisting.

Article XVIII. The United States shall guaranty to each state a republican form of government; and shall protect each state against foreign invasions, and, on the application of its legislature, against domestic violence.

Article XIX. On the application of the legislatures of two thirds of the states in the Union, for an amendment of this Constitution, the legislature

of the United States shall call a convention for that purpose.

Article XX. The members of the legislatures, and the executive and judicial officers of the United States, and of the several states, shall be bound by oath to support this Constitution.

Article XXI. The ratification of the conventions of states shall be sufficient for organizing this Constitution.

Article XXII. This Constitution shall be laid before the United States in Congress assembled, for their approbation; and it is the opinion of this Convention, that it should be afterwards submitted to a convention chosen in each state, under the recommendation of its legislature, in order to receive the ratification of such convention.

Article XXIII. To introduce this government, it is the opinion of this Convention, that each assenting convention should notify its assent and ratification to the United States in Congress assembled; that Congress, after receiving the assent and ratification of the conventions of states, should appoint and publish a day, as early as may be, and appoint a place, for commencing proceedings under this Constitution; that, after such publication, the legislatures of the several states should elect members of the Senate and direct the election of the members of the House of Representatives; and that the members of the legislature should meet at the time and place assigned by Congress, and should, as soon as may be after their meeting, choose the President of the United States, and proceed to execute this Constitution.*

To determine the extent of the powers granted to Congress was a difficult matter and occupied much time; it was necessary to "draw a line of demarkation which would give to the general government every power requisite for general purposes, and leave to the States every power which might be most beneficially administered by them." The committee

* Curtis, *Constitutional History*, vol. i., pp. 721-728; Taylor, *Origin and Growth of the Constitution*, App. xvii.; Hunt, *Madison's Journal*, vol. ii., pp. 76-90.

of detail provided that the legislative power should be vested in a Congress of two branches — Senate and House — each of which should have a negative on the other, and while the Convention had decided by whom the members of Congress were to be appointed, nothing had been settled regarding the qualifications of the electors of representatives nor regarding the qualifications of the members themselves. These two questions therefore remained open — who were to be the people of a State and what persons were to be eligible to legislate for them. At this time large numbers of foreigners were arriving in America, who had, of course, taken no part in obtaining freedom for the country, and a place must be assigned to them in the general political system. The war had engendered a strong American feeling which was intensely jealous of foreign influence, and there was a fairly settled determination that the institutions and legislatures of the country should be effectually safeguarded against foreign control or influence. At the same time it was said that nothing ought to be done which would discourage emigration from Europe of those who might become useful citizens. Such men as Hamilton, Wilson, Robert Morris, and Fitzsimmons were of foreign birth, and as they were high in the councils of the country, it was seen that it would be utterly impossible to exclude all persons of *foreign birth* from being electors or from being elected to

office. The various States had different qualifications for holding office, and dissatisfaction would surely arise if distinct and special qualifications were required under the National Constitution. But it was felt to be essential that the States should surrender to the National government the power to determine what period of residence in the country should be required before persons of foreign birth might assume the privileges and rights of citizenship. The committee of detail recommended that whomever the States by their laws allowed to vote for the most numerous branch of their own legislatures, should be allowed to vote for representatives in Congress. The power of naturalization was transferred to the National government, thereby giving the National legislature power to withhold the privileges of general citizenship, although a State might confer upon foreigners the power of voting without previous naturalization. These recommendations were adopted by large majorities.*

In the course of the debate regarding the rights of suffrage, Butler said:

“There is no right of which the people are more jealous than that of suffrage. Abridgments of it tend to the same revolution as in Holland, where they have at length thrown all power into the hands of the Senate, who fill vacancies themselves and form rank aristocracy.”

Dickinson considered the freeholders of the country as the best

* Curtis, *Constitutional History*, vol. i., pp. 439-444.

guardians of liberty, but Ellsworth said: "How shall the freehold be defined? Ought not every man who pays a tax, to vote for the representative who is to levy and dispose of his money? Shall the wealthy merchants and manufacturers, who will bear a full share of the public burthens be not allowed a voice in the imposition of them? Taxation and representation ought to go together."* Gouverneur Morris said:

"The aristocracy will grow out of the House of Representatives. Give the votes to the people who have no property and they will sell them to the rich who will be able to buy them. We should not confine our attention to the present moment. The time is not far distant when this country will abound with mechanics and manufacturers who will receive their bread from their employers. Will such men be the secure and faithful guardians of liberty? Will they be the impregnable barrier agst aristocracy? * * * The man who does not give his vote freely is not represented. It is the man who dictates the vote. Children do not vote. Why? because they want prudence, because they have no will of their own. The ignorant & the dependent can be as little trusted with the public interest."†

Madison said:

"The right of suffrage is certainly one of the fundamental articles of republican Government, and ought not to be left to be regulated by the Legislature. A gradual abridgment of this right has been the mode in which the aristocracies have been built on the ruins of popular forms. Whether the Constitutional qualification ought to be a freehold, would with him depend much on the probable reception such a change would meet with in States where the right was now exercised by every description of people. In several of the States a freehold was now the qualification. Viewing the subject on its merits alone, the freeholders of the Country would be the safest depositories of Republican liberty. In future times a great majority of the people will not only be

without landed but any other sort of property. These will either combine under the influence of their common situation: in which case, the rights of property & the public liberty will not be secure in their hands: or which is more probable, they will become the tools of opulence and ambition, in which case there will be equal danger on another side. The example of England has been misconceived (by Col. Mason). A very small proportion of the Representatives there are chosen by freeholders. The greatest part are chosen by the Cities & Boroughs, in many of which the qualification of suffrage is as low as it is in any one of the United States & it was in the Boroughs and Cities rather than the Counties that bribery most prevailed, & the influence of the Crown on elections was most dangerously exerted."*

By Section 2 of Article iv. of the draft it was provided that every representative "shall be of the age of twenty-five years at least; shall have been a citizen in the United States for at least three years before his election; and shall be at the time of his election, a resident of the state in which he shall be chosen." As will be remembered, the committee had been instructed to report qualifications of property and citizenship for the members of every department of the government, but as this was an embarrassing subject, in addition to the above provision, they simply incorporated a provision (art. vi., sec. 2) that "the legislature shall have authority to establish such uniform qualifications of the members of each House, with regard to property, as to the said legislature shall seem expedient." As property qualification was far less important than the fact of citizenship, this clause

* Hunt, *Madison's Journal*, vol. ii., p. 97.

† *Ibid*, p. 98.

* *Ibid*, vol. ii., pp. 99-100.

was dropped.* But the term of previous citizenship for Representatives and Senators was important, and after various periods had been suggested, the term of seven years was finally determined upon, all the States agreeing to it except Connecticut.† An attempt was made to exempt foreigners who were then citizens of the States, upon the plea that while according to State law they could ratify the Constitution, it was unjust to prevent them from holding office in the National government until they had enjoyed the privileges of citizenship for seven years. But this attempt was unsuccessful, Connecticut, New Jersey, Pennsylvania, Maryland and Virginia voting in the affirmative, while New Hampshire, Massachusetts, Delaware, North Carolina, South Carolina, and Georgia voted against, the noes thus prevailing by a majority of one State only.‡

The committee of detail had recommended that there should be one representative for every 40,000 inhabitants, and this ratio was now adopted in the article relating to the House, but not before an effort had been made to exclude the slaves from enumeration. At a subsequent stage of the proceedings, however, some of the members endeavored to obtain a

more numerous representation, but a motion to reconsider was lost, and it was not until the Constitution had been engrossed and was about to be signed that an alteration was agreed to at the suggestion of Gorham, seconded by Washington.* On the last day, September 17, Washington arose and remarked that, "though he was sensible of the impropriety of the chairman's intermingling in the debates, yet he could not help observing, that the small number which constituted the representative body appeared to him a defect in the plan — that it would better suit his ideas, and he believed it would be more agreeable to the people, if the number should be increased, and that the ratio should be one for every thirty thousand." The motion for reducing the ratio was then almost unanimously adopted.†

The power of the President and the method of electing him was also a subject which excited much debate, the general subject of the executive office being discussed on twenty-one different days, while on the method of election thirty votes were taken.‡

It had first been the plan to have the Senate make the choice, but Wilson feared that, together with its

* Curtis, *Constitutional History*, vol. i., pp. 444-445; Hunt, *Madison's Journal*, vol. ii., pp. 128-132.

† Hunt, *Madison's Journal*, vol. ii., pp. 107-110, 120-125, 142-149.

‡ *Ibid.*, vol. ii., p. 148; Curtis, *Constitutional History*, vol. i., pp. 445-448.

* As to Washington's having ever addressed the Convention from the chair, see Lodge, *George Washington*, vol. ii., pp. 32-33, note.

† Hunt, *Madison's Journal*, vol. ii., p. 392.

‡ McLaughlin, *The Confederation and the Constitution*, p. 267. See also Hunt, *Madison's Journal*, vol. i., pp. 49-57, 62 *et seq.*, 67-69, 107-109, vol. ii., p. 1 *et seq.*

other rights, the Senate would have too much power, saying: "According to the plan as it now stands the President will not be the man of the people as he ought to be, but the minion of the Senate. He cannot even appoint a tide-waiter without the Senate."* The matter was referred to a committee of compromise, together with several other measures, and it was agreed that each State should appoint a number of electors equal to its representation in Congress, that each elector should vote for two persons, and that the one receiving the highest number of votes, if a majority, should be President, and the one receiving the next highest, should be Vice-President, the term being decided upon as four years. In case no candidate should receive a majority of the votes, the choice should devolve upon the House.†

Another long debate occurred regarding the right to originate money bills, it first having been proposed that this power should belong to the House only, as the body in which the people were most directly represented. But when the Convention had come to a deadlock regarding the equality of votes in the Senate, the small States compromised with the large States (who did not

favor equality) by offering to allow the House the exclusive right to originate money bills. After the draft had come down from the committee of detail, strong opposition developed, and it was proposed that bills for raising money for the purpose of revenue or appropriating money should originate in the House and should not be so altered and amended by the Senate as to increase or diminish the sum to be raised, to change the mode of levying it, or the object of appropriation. This proposition was lost and the debate on the President was taken up, but as no definite action could be taken by the Convention, a committee of compromise was appointed and both matters compromised by transferring the election of the President in case of a deadlock to the House instead of the Senate, while on the other hand, the Senate was given the right to amend the revenue bills, in which shape both measures were adopted.* There were long debates also on the numbers and qualifications of Senators, the powers of the Senate, executive influence, disqualifications for office, the election of Senators and Representatives, impeachments, the Vice-Presidency, the methods of enacting laws, the President's negative, the seat of government, etc. All these questions

* Hunt's ed. of *Madison's Writings*, vol. iv., p. 381. See also Morris' speech, in Hunt, *Madison's Journal*, vol. ii., p. 1 *et seq.*

† Curtis, *Constitutional History*, vol. i., pp. 455-457, 563-583; Fiske, *Critical Period*, p. 279 *et seq.*

* Curtis, *Constitutional History*, vol. i., pp. 452-457. See also Hunt, *Madison's Journal*, vol. ii., pp. 115-116, 118-119, 149-158, 242-245, 298-304, 305-306, 307-325, 337.

were compromised, but we cannot here enter into detail.*

After debate, the general government was specifically granted power to borrow money, emit bills of credit, to coin money, and to regulate the value of foreign coins, to establish post-offices and post-roads, to declare war and to grant letters of marque and reprisal, to raise and support armies, to provide and maintain a navy, to call out the militia under certain conditions, to establish a uniform rule of naturalization, to regulate Indian affairs, to fix the standard

of weights and measures, to define and punish piracy on the high seas, to constitute tribunals inferior to the supreme court, etc., and "to make all the laws which may be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the government of the United States or in any department or office thereof."* Regarding the judiciary, it had been determined that there should be one supreme tribunal under the Constitution, and that the legislature should have power to establish inferior tribunals; but before referring the subject to the committee of detail, nothing more precise had been determined upon respecting jurisdiction than the broad principles which declared that it should extend to cases arising under laws passed by the general legislature, and to such other questions as might touch the national peace and harmony. The committee of detail provided that the jurisdiction should embrace cases arising under the laws of the United States and include all cases affecting ambassadors, other public ministers and consuls, impeachments of government officials, all cases of admiralty and maritime jurisdiction, interstate controversies, excepting such as might regard territory or jurisdiction, controversies between citizens

* See Curtis, *Constitutional History*, vol. i., pp. 457-493. On the various compromises, see Max Farrand, *Compromises of the Constitution*, in *American Historical Review*, vol. ix., pp. 479-489; Baneroft, vol. vi., pp. 292-366. See also William M. Meigs, *Growth of the Constitution in the Federal Convention of 1787* (1900); *ibid*, *The Relation of the Judiciary to the Constitution*, in *American Law Review*, pp. 175-203 (1885); *Documentary History of the Constitution, 1786-1870*, vols. i.-iii. (5 vols., 1894-1905); King, *Life and Correspondence of Rufus King*, vol. i., pp. 587-621 (King's Minutes); Patterson's notes in *American Historical Review*, vol. ix., pp. 310-340; Yates' notes in Elliot, *Debates*, vol. i., pp. 389-479; Martin's Letters in Elliot, *Debates*, vol. i., pp. 344-389; Hamilton's notes in *American Historical Review*, vol. x., pp. 97-109; Pierce's notes in *ibid*, vol. iii., pp. 310-344; W. T. Brantly, *Formation of the Federal Constitution*, in *Southern Law Review*, vol. vi. (August, 1880); C. E. Stevens, *Sources of the Constitution*, chap. ii.; J. F. Baker, *The Federal Constitution*; S. G. Fisher, *Evolution of the Constitution*; Max Farrand (ed.), *Records of the Federal Convention of 1787* (1911). Regarding Bancroft's so-called "Connecticut plan," see Hannis Taylor, *A Bancroftian Invention*, in *Yale Law Journal*, vol. xviii., no. 2, pp. 75-84 (December, 1908). For a discussion of the powers of the judiciary, Congress, the President, etc., see Story, *Commentaries on the Constitution*, vol. i., pp. 388-762, vol. ii., pp. 1-208, 280-390, 391-576.

* McLaughlin, *The Confederation and the Constitution*, p. 254; Curtis, *Constitutional History*, vol. i., chaps. xxvii.-xxviii.; Fiske, *Critical Period*, p. 268 *et seq.*

of different States, between a State and the citizens of another State, and between a State or its citizens and foreign States, citizens or subjects. In impeachment cases, cases affecting ambassadors, other public ministers and consuls, and those in which a State was a party, the original jurisdiction was assigned to the supreme court, but in the other cases enumerated, the jurisdiction of the supreme tribunal was to be appellate only, with such exceptions and regulations as the legislature might make; original jurisdiction in these cases being assigned to such inferior tribunals as might be created. Criminal offences, except impeachments, were to be tried before the jury in the State in which the crime was committed, while controversies between States respecting jurisdiction or territory and controversies over land claimed under grants by different States were to be tried by the Senate. When brought before the Convention, several provisions were added to those of the committee of detail. The supreme tribunal should determine as to whether or not the laws passed by the various States were constitutional; and all judicial cases arising under the Constitution, laws or treaties of the United States should come within the cognizance of the national judiciary. In order that criminal offences committed outside the limits of any State might be tried before a jury, the Convention provided that the trial should be at such

place or places as Congress might by law have directed.*

The sectional differences between the North and South showed themselves particularly in the debates on the regulation of commerce and the importation of slaves. It was obvious that the various States could not be relied upon to levy equitable and uniform duties nor properly to manage commercial relations, for there were bound to be as many tariff schedules and as many policies as there were States. Twice during the course of the debates General Pinckney had given notice that, if the federal government possessed power to tax exports, South Carolina would not enter the new Union. It was also very doubtful whether all the Southern States would surrender to the general government the power to prohibit the slave trade. The South had agreed that only three fifths of her slave population should be counted for representation purposes, but she had not agreed to surrender the right to increase the slave population by importing slaves, and it was therefore seen that, unless some compromise could be made, neither North nor South would ratify the Constitution.†

When the Constitution was framed, there was not a single product common to all the States of sufficient

* For the formation and the functions of the national judiciary, see Curtis, *Constitutional History*, vol. i., chap. xxx. See also Hunt, *Madison's Journal*, pp. 260-261.

† Curtis, *Constitutional History*, vol. i., p. 495.

importance to be generally exported. The exports were so various both in kind and amount that a tax on a Southern product could not be balanced by a tax on a Northern product—an export duty on the tobacco of Virginia or the rice or indigo of South Carolina could not be equalized by a similar duty on the lumber, fish or flour of the other States. It was therefore quite impossible to obtain the consent of all the States to allow Congress to regulate both imports and exports—a full and complete revenue power. Washington, Gouverneur Morris, Madison, Dickinson, and Wilson were known to have favored the granting of such power to Congress, but as South Carolina had taken a decided stand against it, the committee of detail inserted in their draft of the Constitution a distinct prohibition against levying a tax or duty on exports (art. vii., sec. 4).

A similar question was bound to arise in connection with the slave trade; for, if Congress had unlimited and universal power to regulate commerce, that power must include the right to prohibit the importation of slaves, but if this latter right belonged to the States, it must be so clearly and definitely established in the Constitution. As the slaves were to be reckoned in as a basis of representation, the Northern States had a strong political motive for wishing to empower the general government to prohibit further importation—they designed to take away the power

of a State to increase its congressional representation by bringing slaves from Africa. While the trade had been prohibited by all the other States (including Maryland and Virginia) North Carolina, South Carolina, and Georgia only subjected the trade to a duty. A clear distinction was made between prohibiting future importation of slaves and the manumission of those already in the country, for the power to prohibit future importation could be made without trenching upon the sovereign control of the States over the condition of all persons within their limits, while the power to determine whether the slaves should continue in slavery could not be surrendered without overturning every principle on which the system of the new government had been rested.*

Charles Pinckney said that if the South were not molested, she would in time and of her own accord stop the importation of slaves, but if this right were taken away, it would probably produce a serious objection to the adoption of the Constitution.† But he then attempted to justify slavery. C. C. Pinckney said that the passage of a prohibitory act would automatically exclude South Carolina from the Union, and he was supported by Williamson of North

* Curtis, *Constitutional History*, vol. i., pp. 498–499.

† McLaughlin, *The Confederation and the Constitution*, p. 262; Fiske, *Critical Period*, p. 266; Hunt, *Madison's Journal*, vol. ii., pp. 218–219.

Carolina and Rutledge.* Martin said that to permit the importation of slaves was contrary to the principles upon which the Revolution was fought and dishonorable to the character of Americans, while Madison thought it wrong to allow anything to be incorporated in the Constitution which would give an idea "that there could be property in men."† Mason said that he was very sorry that the North "had from a lust of gain embarked in this nefarious traffic."‡ "Slavery discourages art & manufactures. The poor despise labor when performed by slaves. * * * They produce the most pernicious effect on manners. Every master of slaves is born a petty tyrant. They bring the judgment of Heaven on a Country."|| The difficulty was to effect a compromise, for, if slaves were excluded, at least two States would refuse to accept the Constitution; while, on the other hand, if importation of slaves were permitted, many in the North would revolt. Rutledge of South Carolina said: "Religion and humanity had nothing to do with this question. Interest alone is the governing principle with nations. The true question at present is, whether the Southern States shall or shall not be parties to the Union. If the Northern States con-

sult their interest, they will not oppose the increase of slaves, which will increase the commodities of which they will become the carriers." The response came from Connecticut, Oliver Ellsworth saying: "Let every State import what it pleases. The morality or wisdom of slavery are considerations belonging to the States themselves. What enriches a part enriches the whole," and he might have added that this was particularly applicable to Newport and the adjacent coasts with their trade to the African coast.*

When the committee of detail made its report, the commercial power was shaped so as to compromise matters, it being provided that Congress should "have the power to lay and collect taxes, duties, imposts, and excises, [and] to regulate commerce with foreign nations and among the several States" (art. vii., sec. 1.), but several restrictions were also suggested. It was provided that direct taxation should be proportioned among the several States according to the census (art. vii., sec. 3); that "no tax or duty [should] be laid by the legislature on articles exported from any State; nor on the migration or importation of such persons as the several States [should] think proper to admit; nor [should] such migration or exportation be prohibited" (sec. 4); that "no capitation tax should be laid

* *Ibid.*, vol. ii., pp. 221, 223, 224.

† Hunt's ed. of *Madison's Writings*, vol. iv., pp. 264-306.

‡ *Ibid.*, p. 266; Fiske, *Critical Period*, p. 264.

|| Hunt, *Madison's Journal*, vol. ii., p. 220.

* Gay, *Life of Madison*, p. 136.

unless in proportion to the census" (sec. 5); and that "no navigation act [should] be passed without the assent of two-thirds of the members present in each House" (sec. 6). When this report was received, it was seen that the hands of the national legislature were tied in two important respects. It could neither prohibit the importation of slaves nor tax exports. The Northerners had conceded slave representation in the hope that the plan of government might be strengthened and that power would be given to it to raise revenue and to regulate commerce. Now that they were up against a brick wall, they argued that if slaves could be imported, there was no reason why exports produced by their labor should not be taxed to enable the general government to defend their masters. On August 8 Rufus King said that this proposition was so reasonable that he could not consent to the representation of the slaves unless exports should be taxable, and perhaps would not consent to slave representation at all. Said he:

"What are the objects of the Gen'l System? 1. defence ag't foreign invasion. 2. ag't internal sedition. Shall all the States then be bound to defend each; & shall each be at liberty to introduce a weakness which will render defence more difficult? Shall one part of the United States be bound to defend another part, and that other part be at liberty not only to increase its own danger, but to withhold the compensation of the burden? If slaves are to be imported shall not the exports produced by their labor, supply a revenue the better to enable the Gen'l Gov't to defend their masters? There is so much inequality and unreasonableness in all this, that the people of the Northern States could never be

reconciled to it. No candid man could undertake to justify it to them. He had hoped that some accommodation w'd have taken place on this subject; that at least a time w'd have been limited for the importation of slaves. He never could agree to let them be represented in the Nat'l Legislature. Indeed he could so little persuade himself of the rectitude of such a practice that he was not sure he could assent to it under any circumstances. At all events, either slaves should not be represented or exports should be taxable." *

Gouverneur Morris now attempted to open the old sore of representation. After comparing the Northern and Southern States he said:

"Upon what principle is it that the slaves shall be computed in the representation? Are they men? Then make them Citizens and let them vote. Are they property? Why then is no other property included? The houses in this city (Philad'a) are worth more than all the wretched slaves which cover the rice swamps of South Carolina. The admission of slaves into the Representation when fairly explained comes to this; that the inhabitants of Georgia and S. C. who go to the Coast of Africa, and in defiance of the most sacred laws of humanity tears away his fellow creatures from their dearest connections & damns them to the most cruel bondages, shall have more votes in a Gov't instituted for the protection of the rights of mankind, than the Citizens of Pa. or N. Jersey who view with a laudable horror, so nefarious a practice. He would add that Domestic slavery is the most prominent feature in the aristocratic countenance of the proposed Constitution. The vassalage of the poor has ever been the favorite offspring of Aristocracy. And What is the proposed compensation to the Northern States for a sacrifice of every principle of right, of every impulse of humanity. They are to bind themselves to march their militia for the defence of the S. States; for their defence ag't those very slaves of whom they complain. They must supply vessels & seamen in case of foreign attack. The Legislature will have indefinite power to tax them by excises, and duties on imports: both of which will fall heavier on them than on the Southern inhabitants; for the Bohae tea used by a Northern freeman, will pay more tax than the whole consumption of the miserable slave, which consists of nothing more than his

* Hunt, *Madison's Journal*, vol. ii., p. 111.

physical subsistence and the rag that covers his nakedness. On the other side the Southern States are not to be restricted from importing fresh supplies of wretched Africans, at once to increase the danger of attack, and the difficulty of defence; nay they are to be encouraged to it by an assurance of having their votes in the Nat'l Gov't increased in proportion, and are at the same time to have their exports & their slaves exempt from all contributions for the public service. Let it not be said that direct taxation is to be proportioned to representation. It is idle to suppose that the Gen'l Gov't can stretch its hand directly into the pockets of the people scattered over so vast a Country. They can only do it through the medium of exports, imports, and excises. For What then are all the sacrifices to be made? He would sooner submit himself to a tax for paying for all the negroes in the U. States, than saddle posterity with such a Constitution.*

But fortunately his motion to insert the word "free" before "inhabitants" received only one vote.†

No matter how the question of restricting the power of the government to tax exports was decided, some members of the Convention were bound to object. There was also another question involved. The national government was prohibited from taxing exports but the States still retained that power. If they still retained the power to tax their own exports, they also had the same right to tax the products of other States exported through their maritime towns. It was therefore apparent that the interior States were at the mercy of the coast States and that consequently the general government ought to have the power to regulate duties equitably. Nevertheless seven

States (Massachusetts, Connecticut, Maryland, Virginia [Washington and Madison *no*], North Carolina, South Carolina, and Georgia) on August 21, voted that the legislature should not have the power to tax exports. New Hampshire, New Jersey, Pennsylvania, and Delaware voted in the affirmative.* The committee of detail had also incorporated a provision that to pass a navigation act required the vote of two thirds of the members of each House, and the Southern members insisted on this rule, North Carolina, and South Carolina, and Georgia also insisting that, unless they had the right to import slaves, they would not ratify the Constitution. Gouverneur Morris then proposed that the three matters of exports, slave trade and a navigation act be referred to a committee of one from each State, so that the matter might be compromised,† this committee consisting of Langdon, King, Johnson, Livingston, Clymer, Dickinson, Luther Martin, Madison, Williamson, C. C. Pinckney, and Baldwin. After due consideration, it was compromised by recommending that the importation of slaves be prohibited after 1880, but that a tax or duty not exceeding the average rate of duties levied on exports might be imposed on such persons; that the capitation tax should remain; and

* *Ibid.*, pp. 112-114.

† Curtis, *Constitutional History*, vol. i., pp. 502-503.

* Curtis, vol. i., p. 505. See also Hunt, Madison's *Journal*, vol. ii., pp. 177-180, 213-218.

† Hunt, Madison's *Journal*, vol. ii., p. 225.

that the provision requiring a navigation act to be passed by a vote of two thirds should be stricken out.* This recommendation was changed in only two respects: the duty on imported slaves being fixed at \$10 and the limit of importation being changed from 1800 to 1808.† In this form the compromise was passed by a vote of seven States (New Hampshire, Massachusetts, Connecticut, North Carolina, South Carolina, and Georgia) against four (New Jersey, Pennsylvania, Delaware, and Virginia).‡ Thus was accomplished a compromise which gave to the general government its control over the com-

mercial relations of the States with foreign nations and with each other.

Having now compromised the chief points on which disputes arose, it remained only to guarantee to every State a republican form of government, to protect the States from foreign invasion and domestic violence, and to determine the mode of amending and ratifying the Constitution. The original Confederation was made incapable of alteration except by the unanimous assent of the States, and it was felt that this should be changed. The committee of detail was therefore instructed to incorporate a provision for amending the Constitution whenever it should seem necessary. In their first draft, therefore, the committee provided that, "on the application of the legislatures of two thirds of the States in the Union, for an amendment to this Constitution, the legislature shall call a convention for that purpose" (art. xix.), but this article did not state whether the legislature should propose amendments to be adopted by the Convention, or whether the Convention should both propose and adopt them, or only propose amendments to be adopted by some other body. As this was very indefinite and inadequate, Madison introduced a substitute method (now the fifth article of the Constitution) providing that Congress, whenever two thirds of both Houses should deem it necessary, should propose amendments, or upon the application of two

* *Ibid*, p. 241.

† Madison said: "Twenty years will produce all the mischief that can be apprehended from the liberty to import slaves. So long a term will be more dishonorable to the American character than to say nothing about it in the Constitution."—Gilpin, *Madison Papers*, vol. ii., p. 1427. See also Madison's *Works* (Congress ed.), vol. iii., p. 149 *et seq.*

‡ Hunt, *Madison's Journal*, vol. ii., pp. 250-251; Curtis, *Constitutional History*, vol. i., pp. 510-511; Hunt's ed. of *Madison's Writings*, vol. iv., pp. 292, 303, 306; Thorpe, *Story of the Constitution*, pp. 137-138; Hunt, *Life of Madison*, pp. 125-126. Pinckney summed up the result of this compromise to his constituents as follows: "By this settlement we have secured an unlimited importation of negroes for twenty years; nor is it declared that the importation shall be then stopped; it may be continued. We have a security that the general government can never emancipate them, for no such authority is granted. * * * We have obtained a right to recover our slaves, in whatever part of America they may take refuge, which is a right we had not before. In short, considering all circumstances, we have made the best terms, for the security of this species of property, it was in our power to make. We would have made better if we could, but on the whole I do not think them bad."—Gay, *Life of Madison*, pp. 108-109.

thirds of the State legislatures should call a convention for proposing amendments, these amendments to become valid as part of the Constitution when ratified by the legislatures of three fourths of the States, or by conventions in three fourths of the States.* This power of amendment was limited in some respects. It will be remembered that the States were allowed to import slaves up to the year 1808 and that Congress could not lay a capitation or other direct tax, unless in proportion to the census or enumeration of the inhabitants of the States in which only three-fifths of the slaves were included. It will be remembered also that the smaller States had long and finally successfully contended for equal representation in the Senate. Mr. Rutledge of South Carolina therefore moved a proviso which forbade any amendment to the clauses regarding slave trade and capitation or other direct taxes, and Mr. Sherman of Connecticut moved that no State should be deprived of its equality of representation in the Senate without its consent. Both amendments were approved by the Convention.†

The other question to be determined was: Should the Constitution go into operation at all unless adopted by all the States, and if so, what number of

States should be necessary to effect its establishment? The committee of detail had declared that the Constitution must first be submitted to the approbation of the existing Congress and then to assemblies of representatives to be recommended by the State legislatures to be expressly chosen by the people to consider and decide upon it. But this did not state what disposition was to be made of those States that should reject it. Would it be possible for some of the States to withdraw from the Confederation and establish for themselves a new general government, or should the ratification by a majority of the States establish the Constitution and so bind the minority? It appeared clear that, if a unanimous adoption were required, the labors of the Convention would be defeated. Rhode Island had taken no part in the Convention; New York was not represented for several weeks; and the majority of the other delegates had declared themselves opposed to it; and Luther Martin of Maryland predicted that his State would reject it. Under these circumstances, a unanimous requirement would have been fatal to the experiment of creating a new government. It was therefore decided that the ratifications of the conventions of nine States should be sufficient to establish the Constitution between the States that might so ratify it. New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland,

* Hunt, *Madison's Journal*, pp. 339 *et seq.*, 384 *et seq.*

† Bancroft, vol. vi., pp. 363-364; Curtis, *Constitutional History*, vol. i., pp. 613-616; Fiske, *Critical Period*, p. 268 *et seq.*

and Georgia voted in the affirmative and Virginia, North Carolina, and South Carolina in the negative regarding the number of States necessary.*

Having now determined upon the articles, a committee was appointed on September 8, consisting of Johnson, Hamilton, Gouverneur Morris, Madison, and King "to revise the style of and arrange the articles agreed to by the House."† On the 12th this committee reported a revised draft of the Constitution, the text of which owes its luminous order to the great mind of Gouverneur Morris.‡ The Constitution was then engrossed and, having been signed by all but sixteen dissenting members,|| the Convention adjourned on September 17. As an example of Franklin's tact, Madison said that at the

close of the Convention, while the members were signing the Constitution, Franklin pointed to a sun painted on the back of the president's chair, and remarking with a smile that painters had often found it difficult to distinguish a rising from a setting sun, he said: "I have often and often, in the course of the session, and the vicissitudes of my hopes and fears as to its issue, looked at that sun behind the president, without being able to tell whether it was rising or setting. But now, at length, I have the happiness to know that it is a rising and not a setting sun."*

A few days before the Convention adjourned, the draft of a letter to Congress was prepared by Washington, submitted to the Convention and adopted,† and after the Constitution had been signed it was transmitted to Congress in this letter, which was as follows:

"IN CONVENTION, Sept. 17, 1787.

"SIR,—We have now the honor to submit to the consideration of the United States, in Congress assembled, that Constitution which has appeared to us the most advisable.

"The friends of our country have long seen and desired, that the power of making war, peace and treaties; that of levying money, and regulating commerce, and the correspondent executive and judicial authorities, should be fully and effectually vested in the general government of the Union: but the impropriety of delegating such extensive trust to one body of men is evident. Hence results the necessity for a different organization.

* Curtis, *Constitutional History*, vol. i., pp. 617-621; Hunt, *Madison's Journal*, vol. ii., pp. 284-288, 342-346, 368-369.

† Baneroft, vol. vi., pp. 292-356; Hunt, *Madison's Journal*, vol. ii., p. 338.

‡ See his *Life* by Jared Sparks, vol. i., p. 284; also Madison's letter of April 8, 1831, to Jared Sparks, in *Madison's Works* (Congress ed.), vol. iv., p. 169. For his attitude on the various points at issue, see Roosevelt, *Gouverneur Morris*, pp. 133-166. For text, see Thorpe, *Federal and State Constitutions*, vol. i., pp. 19-35; Taylor, *Origin and Growth of the American Constitution*, App. xviii.; Hunt, *Madison's Journal*, vol. ii., pp. 348-359, 398-414; Curtis, *Constitutional History*, vol. i., pp. 728-745. See also Appendix ii. at the end of the present chapter.

|| Schouler, *United States*, vol. i., p. 52; McLaughlin, *The Confederation and the Constitution*, p. 272. For Franklin's speech, see Thorpe, *Story of the Constitution*, p. 139 *et seq.*; Hunt, *Madison's Journal*, vol. ii., pp. 389-391, and for the reasons of some of those who refused to sign, p. 393 *et seq.*

* Parton, *Life of Franklin*, vol. ii., pp. 581-582; Morse, *Life of Franklin*, p. 405; McMaster, *United States*, vol. i., p. 453.

† See Hunt, *Madison's Journal*, vol. ii., pp. 360-361.

"It is obviously impracticable in the federal government of these states, to secure all the rights of independent sovereignty to each, and yet provide for the interest and safety of all. Individuals entering into society, must give up a share of liberty, to preserve the rest. The magnitude of the sacrifice must depend, as well on situation and circumstance, as on the object to be obtained. It is at all times difficult to draw with precision the line between those rights which must be surrendered, and those which may be reserved; and, on the present occasion, this difficulty was increased by a difference among the several states, as to their situation, extent, habits, and particular interests.

"In all our deliberations on this subject, we kept steadily in our view, that which appears to us the greatest interest of every true American, the consolidation of our Union, in which is involved our prosperity, felicity, safety, perhaps our national existence. This important consideration, seriously and deeply impressed on our minds, led each state in the Convention to be less rigid on points of inferior magnitude, than might have been otherwise expected, and thus the Constitution, which we now present, is the result of a spirit of amity, and of that mutual deference and concession, which the peculiarity of our political situation rendered indispensable.

"That it will meet the full and entire approbation of every state, is not perhaps to be expected: but each state will doubtless consider, that had her interests alone been consulted, the consequences might have been particularly disagreeable or injurious to others: that it is liable to as few exceptions as could reasonably have been expected, we hope and believe; that it may promote the lasting welfare of that country so dear to us all, and secure her freedom and happiness, is our most ardent wish.

"With great respect we have the honor to be, Sir, your Excellency's most obedient and humble Servants.

"GEORGE WASHINGTON,

President.

"By unanimous Order of the Convention.
"HIS EXCELLENCY THE PRESIDENT OF CONGRESS."

One or two omissions in the Constitution should be noted. There is no specific grant of power to the national government to coerce a rebellious State; nor is anything said

as to the right of a State to secede. The Convention framed a Constitution by the adoption of which thirteen peoples, believing themselves independent and sovereign, in reality acknowledged themselves to be but parts of a single political whole.* If the Constitution had contained the above provisions, if it had definitely stated that by adopting it the sovereignty of the nation would be acknowledged, and that no part or parts could sever connection from the rest without the consent of the whole, probably every State in the Union would have rejected it. These omissions may be called a compromise between State sovereignty and nationalism. Without these compromises, the Constitution would not have been adopted, but it is important to note that all of them proved to be denationalizing forces, "they tended to perpetuate that feeling of separateness and isolation, that state selfishness or state patriotism, the prevalence of which made the period between 1783 and 1787 a dangerous critical period in American history."† These compromises at various times seriously threatened the very existence of the Union, and men

* Writing to Jefferson October 24, 1787, Madison says: "It was generally agreed that the objects of the Union could not be secured by any system founded on the principle of a confederation of Sovereign States. A voluntary observance of the federal law by all the members could never be hoped for."—*Madison's Works* (Congress ed.), vol. i., p. 344.

† Gordy, *Political History of the United States*, vol. i., p. 80.

both North and South thought the States possessed the right to withdraw from the Union whenever they saw fit. At the time of the adoption of the Constitution Virginia went so far as to state that "the powers granted under the Constitution, being derived from the people of the United States, may be resumed by them whensoever the same shall be perverted to their injury or oppression," and that "every power not granted thereby remains with them and at their will." Rhode Island declared that "the powers of government may be resumed by the people whensoever it shall become necessary to their happiness." Daniel Webster, in a speech at Capon Springs, Va., in 1851 said:

"How absurd it is to suppose that when different parties enter into a compact for certain purposes, either can disregard any one provision, and expect, nevertheless, the other to observe the rest. * * * I have not hesitated to say, and I repeat, that if the Northern States refuse wilfully and deliberately to carry into effect that part of the Constitution which respects the restoration of fugitive slaves, and Congress provide no remedy, the South would no longer be bound to observe the compact. A bargain cannot be broken on one side and still bind on the other side. I say to you, gentlemen in Virginia, as I said on the shores of Lake Erie and in the city of Boston, as I may say again in that city or elsewhere in the North, that you of the South have as much right to receive your fugitive slaves as the North has to any of its rights and privileges of navigation and commerce. I am as ready to fight and fall for the constitutional rights of Virginia as I am for those of Massachusetts."

Jefferson Davis expressed the sentiment of the South on January 21, 1861, when he rose in the Senate to resign his seat in that body:

"I rise, Mr. President, for the purpose of an-

nouncing to the Senate that I have satisfactory evidence that the State of Mississippi by a solemn ordinance of her people, in convention assembled, has declared her separation from the United States. * * * If it be the purpose of gentlemen, they may make war against a State which has withdrawn from the Union; but there are no laws of the United States to be executed within the limits of a seceded State. A State, finding herself in the condition in which Mississippi has judged she is—in which her safety requires that she should provide for the maintenance of her rights out of the Union—surrenders all the benefits (and they are known to be many), deprives herself of the advantages (and they are known to be great), severs all the ties of affection (and they are close and enduring), which have bound her to the Union; and thus divesting herself of every benefit—taking upon herself every burden—she claims to be exempt from any power to execute the laws of the United States within her limits. * * * We recur to the principles upon which our government was founded; and when you deny them, and when you deny the right to us to withdraw from a government which, thus perverted, threatens to be destructive of our rights, we but tread in the path of our fathers when we proclaim our independence and take the hazard." *

Horace Greeley stated in the *New York Tribune*, November 9, 1860, that the right to secede may be a revolutionary one, but it exists nevertheless." The *New York Herald*, an independent journal, said on November 25, 1860: "Coercion in any event is out of the question. A Union held together by the bayonet would be nothing better than a military despotism." And again: "Each State is organized as a complete government, holding the purse and wielding the sword, possessing the right to break the tie of the confederation,

* See *The South in the Building of the Nation*, vol. ix., pp. 412-417, where the entire speech is given.

and to repel coercion as a nation might repel invasion. * * * Coercion, if it were possible, is out of the question."

However this might have been, when the Convention disregarded the Articles of Confederation, every State that adopted the Constitution sanctioned the action of the Convention and became a party to it. "Every such state admitted that the theory of the Constitution, that the states were independent and sovereign, was false. For, according to the new Constitution, the states were not equal. In the house of representatives the states were to be represented in proportion to their population, and in voting for president their power was to be in nearly the same ratio. The government called into being by the new constitution did not, like the Congress of the Confederation, stop at the sacred boundary-lines of the states. It boldly crossed the Rubicon; it entered the territory of the states and was declared by the constitution, within certain limits, and for certain purposes, to be the supreme authority there. Most decisive of all, every state that voted for the constitution declared that, in a matter of fundamental importance, a certain majority could act for the whole. Nine states, said the constitution (and every state that voted for it said the same thing) could destroy the government of the entire thirteen. If, in a matter of such moment, a certain majority could act for the whole,

why not in any matter? Before the adoption of the constitution, the states might put on the airs of sovereignty without making themselves ridiculous. But when they had adopted it, they tacitly confessed that the crowns of which they had boasted were but the creations of ambitious dreams, for they themselves had acknowledged the supremacy of the real sovereign."*

Nevertheless, it was this great diversity of opinion regarding the rights of the States that plunged the country into one of the most terrible civil wars known to history. "That civil war was the price which the American people paid for the lack of national patriotism in 1787. With national patriotism enough to have had at heart the highest ultimate good of the whole American people, the Convention would have framed, and the States would have adopted, a constitution without these compromises. But the actual alternatives were a constitution with these denationalizing elements, or anarchy. The work which national patriotism might have done peacefully and without loss in 1787, was done at a terrible cost in the Civil War. The Constitution which was intended to be the great national charter of a free people is no longer disfigured by clauses recognizing slavery. The

* Gordy, *Political History of the United States*, vol. i., pp. 90-91 (2d ed., copyright 1901 by Henry Holt & Co.). See also Burgess, *Political Science*, vol. i., chap. ii., pp. 98-108.

three slavery clauses were blotted out of it by the blood of the men who fell in that terrible struggle. It is still silent as to secession and State sovereignty. But, in the lurid light of the Civil War that silence is no longer misinterpreted."* The war made a nation out of a Federal government; no State government nor any State court now claims the right to finally pass upon the constitutionality of a question, the Supreme Court being

recognized as the proper functionary to decide matters of so grave importance. But there is still the question of States' right, of just as much importance to the country now as it was before the war, particularly with regard to the control of our great commercial corporations, with regard to interstate commerce, and with regard to the rights of aliens in the States under treaties of the government with foreign nations.

APPENDIX TO CHAPTER VI.

I. LIST OF THE MEMBERS OF THE FEDERAL CONVENTION WHICH FRAMED THE CONSTITUTION OF THE UNITED STATES.

<i>New Hampshire.</i>		ATTENDED			ATTENDED
1. JOHN LANGDON.....	July 23, 1787		10. WILLIAM PATTERSON....	May 25, 1787	
JOHN PICKERING,			JOHN NEILSON,		
2. NICHOLAS GILMAN.....	July 23, 1787		ABRAHAM CLARK,		
BENJAMIN WEST,			11. JONATHAN DAYTON	June 21, 1787	
<i>Massachusetts.</i>					
FRANCIS DANA,			<i>Pennsylvania.</i>		
ELBRIDGE GERRY	May 29, 1787		12. BENJAMIN FRANKLIN ..	May 28, 1787	
3. NATHANIEL GORHAM	May 28, 1787		13. THOMAS MIFFLIN	May 28, 1787	
4. RUFUS KING	May 25, 1787		14. ROBERT MORRIS	May 25, 1787	
CALEB STRONG	May 28, 1787		15. GEORGE CLYMER	May 28, 1787	
<i>Rhode Island.</i>			16. THOMAS FITZSIMMONS...	May 25, 1787	
[No appointment.]			17. JARED INGERSOLL.....	May 28, 1787	
<i>Connecticut.</i>			18. JAMES WILSON	May 25, 1787	
5. WILLIAM SAMUEL JOHN-			19. GOUVERNEUR MORRIS...	May 25, 1787	
SON..	June 2, 1787		<i>Delaware.</i>		
6. ROGER SHERMAN	May 30, 1787		20. GEORGE READ	May 25, 1787	
OLIVER ELSWORTH	May 29, 1787		21. GUNNING BEDFORD, Jr..	May 28, 1787	
<i>New York.</i>			22. JOHN DICKINSON	May 28, 1787	
ROBERT YATES	May 25, 1787		23. RICHARD BASSETT	May 25, 1787	
7. ALEXANDER HAMILTON..	May 25, 1787		24. JACOB BROOME	May 25, 1787	
JOHN LANSING	June 2, 1787		<i>Maryland.</i>		
<i>New Jersey.</i>			25. JAMES M'HENRY	May 29, 1787	
8. WILLIAM LIVINGSTON....	June 5, 1787		26. DANIEL OF ST. THOMAS		
9. DAVID BREARLY	May 25, 1787		JENIFER	June 2, 1787	
WILLIAM C. HOUSTON....	May 25, 1787		27. DANIEL CARROLL	July 9, 1787	
			JOHN FRANCIS MERCER..	Aug. 6, 1787	
			LUTHER MARTIN	June 9, 1787	

* Gordy, vol. i., pp. 80-81.

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<i>Virginia.</i>		ATTENDED	<i>South Carolina.</i>		ATTENDED
28. GEORGE WASHINGTON ...	PATRICK HENRY, (declined.)	May 25, 1787	34. JOHN RUTLEDGE	35. CHARLES C. PINCKNEY...	May 25, 1787
	EDMUND RANDOLPH	May 25, 1787	36. CHARLES PINCKNEY		May 25, 1787
29. JOHN BLAIR		May 25, 1787	37. PIERCE BUTLER		May 25, 1787
30. JAMES MADISON, Jr.....		May 25, 1787			
	GEORGE MASON	May 25, 1787		<i>Georgia.</i>	
	GEORGE WYTHE	May 25, 1787	38. WILLIAM FEW		May 25, 1787
	JAMES M'CLURG, (in the		39. ABRAHAM BALDWIN		June 11, 1787
	room of P. Henry).....	May 25, 1787		WILLIAM PIERCE	May 31, 1787
				GEORGE WALTON,	
				WILLIAM HOUSTOUN	June 1, 1787
				NATHANIEL PENDLETON,	
	<i>North Carolina.</i>				
	RICHARD CASWELL, (resigned.)				
	ALEXANDER MARTIN	May 25, 1787			
	WILLIAM R. DAVIE.....	May 25, 1787			
31. WILLIAM BLOUNT, (in the					
	room of R. Caswell).....	June 20, 1787			
	WILLIE JONES, (declined.)				
32. RICHARD D. SPAIGHT....		May 25, 1787			
33. HUGH WILLIAMSON, (in					
	the room of W. Jones)....	May 25, 1787			

Those with numbers before their names,	
signed the Constitution	39
Those in small capitals, never attended....	10
Members who attended, but did not sign the	
Constitution	16
	65

II. THE CONSTITUTION OF THE UNITED STATES.

We, the people of the United States, in order to form a more perfect union, establish justice, ensure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE I.

SECT. 1. All legislative powers herein granted, shall be vested in a Congress of the United States, which shall consist of a senate and house of representatives.

SECT. 2. The house of representatives shall be composed of members chosen every second year by the people of the several states; and the electors in each state, shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

No person shall be a representative, who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several states which may be included within this union, according to their respective numbers, which shall be determined, by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of

all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have, at least, one representative; and until such enumeration shall be made, the state of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

The house of representatives shall choose their speaker and other officers; and shall have the sole power of impeachment.

SECT. 3. The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years; and each senator shall have one vote.

Immediately after they shall be assembled in consequence of the first election, they shall be divided, as equally as may be into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of

the sixth year, so that one third may be chosen every second year; and if vacancies happen by resignation or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

The vice president of the United States shall be president of the senate, but shall have no vote, unless they be equally divided.

The senate shall choose their other officers, also a president pro tempore, in the absence of the vice president, or when he shall exercise the office of president of the United States.

The senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit, under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law.

SECT. 4. The times, places and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the places of choosing senators.

The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

SECT. 5. Each house shall be the judge of the election returns, and qualifications, of its own members; and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties as each house may provide.

Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member

ings, and from time to time publish the same, excepting such parts as may, in their judgment, require secrecy; and the yeas and nays of the members of either house on any question, shall, at the request of one fifth of those present, be entered on the journal.

Neither house, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SECT. 6. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States, shall be a member of either house during his continuance in office.

SECT. 7. All bills for raising revenue shall originate in the house of representatives; but the senate may propose or concur with amendments as on other bills.

Every bill which shall have passed the house of representatives and the senate, shall, before it become a law, be presented to the president of the United States. If he approve, he shall sign it; but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house it shall become a law. But in all such cases, the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the president within ten days (Sundays excepted), after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress, by their adjournment prevent its return, in which case it shall not be a law.

Every order, resolution, or vote, to which the concurrence of the senate and house of representatives may be necessary (except on a question of adjournment), shall be presented to the president of the United States; and before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be repassed by two-thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

SECT. 8. The Congress shall have power —

To lay and collect taxes, duties, imposts, and excises:

To pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts, and excises, shall be uniform throughout the United States:

To borrow money on the credit of the United States:

To regulate commerce with foreign nations, and among the several states, and with the Indian tribes:

To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States:

To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures:

To provide for the punishment of counterfeiting the securities and current coin of the United States:

To establish post offices and post roads:

To promote the progress of science and useful arts, by securing for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries:

To constitute tribunals inferior to the supreme court:

To define and punish piracies and felonies committed on the high seas, and offences against the law of nations:

To declare war, to grant letters of marque and reprisal, and make rules concerning captures on land and water:

To raise and support armies; but no appropriation of money to that use shall be for a longer term than two years:

To provide and maintain a navy:

To make rules for the government and regulation of the land and naval forces:

To provide for calling forth the militia to execute the laws of the union, suppress insurrections, and repel invasion:

To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the

United States — reserving to the states respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress:

To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of Congress, become the seat of government of the United States, and to exercise like authority over all places purchased, by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock yards, and other needful buildings:—and,

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

SECT. 9. The migration or importation of such persons as any of the states, now existing, shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

The privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

No bill of attainder, or ex post facto law, shall be passed.

No capitation, or other direct tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken.

No tax or duty shall be laid on articles exported from any state. No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another; nor shall vessels bound to, or from one state, be obliged to enter, clear, or pay duties in another.

No money shall be drawn from the treasury, but in consequence of appropriations made by law: and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

No title of nobility shall be granted by the United States: and no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title of any kind whatever, from any king, prince, or foreign state.

SECT. 10. No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder,

ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

No state shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the Congress. No state shall, without the consent of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

SECT. 1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice President, chosen for the same term, be elected as follows:

Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors equal to the whole number of senators and representatives to which the state may be entitled in the Congress; but no senator or representative, or person holding any office of trust or profit under the United States, shall be appointed an elector.

The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for and of the number of votes for each which list they shall sign and certify and transmit sealed to the seat of the government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the house of representatives shall immediately choose, by ballot, one of them for president; and if no person have a majority, then from the five highest on the list, the said house shall, in like manner, choose the president. But in choosing the president, the votes shall be taken by states, the representation from each state

having one vote. A quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the president, the person having the greatest number of votes of the electors shall be the vice president. But if there should remain two or more who have equal votes, the senate shall choose from them, by ballot, the vice president.

The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

No person, except a natural born citizen, or a citizen of the United States at the time of the adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office, who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice president; and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the president and vice president, declaring what officer shall then act as president, and such officer shall act accordingly until the disability be removed, or a president shall be elected.

The president shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

Before he enters on the execution of his office, he shall take the following oath of affirmation:

"I do solemnly swear, (or affirm) that I will 'faithfully execute the office of president of the United States, and will, to the best of my ability, preserve, protect, and defend the constitution of the United States.'"

SECT. 2. The president shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons for

offences against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the senate, to make treaties, provided two-thirds of the senators present concur: and he shall nominate, and by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers, and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law. But the Congress may by law vest the appointment of such inferior officers as they think proper in the president alone, in the courts of law, or in the heads of departments.

The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions, which shall expire at the end of their next session.

SECT. 3. He shall, from time to time, give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed; and shall commission all the officers of the United States.

SECT. 4. The president, vice president, and all civil officers of the United States shall be removed from office on impeachment for, and conviction of treason, bribery, or other high crimes and misdemeanors.

ARTICLE III.

SECT. 1. The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the Congress may, from time to time, ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior; and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

SECT. 2. The judicial power shall extend to all cases in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more

states, between a state and citizens of another state, between citizens of different states, between citizens of the same state, claiming lands under grants of different states, and between a state, or the citizens thereof, and foreign states, citizens, or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the Congress may by law have directed.

SECT. 3. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The Congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

ARTICLE IV.

SECT. 1. Full faith and credit shall be given in each state, to the public acts, records, and judicial proceedings of every other state. And the Congress may, by general laws, prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

SECT. 2. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor; but shall be delivered up, on claim of the party to whom such service or labor may be due.

SECT. 3. New states may be admitted by the

Congress into this union; but no new state shall be formed or erected within the jurisdiction of any other state, nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned, as well as of the Congress.

The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be construed as to prejudice any claims of the United States, or of any particular state.

SECT. 4. The United States shall guarantee to every state in this union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.

ARTICLE V.

The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this constitution; or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress: Provided, that no amendment which may be made prior to the year 1808, shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

ARTICLE VI.

All debts contracted and engagements entered into, before the adoption of this constitution, shall be as valid against the United States under this constitution as under the confederation.

This constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, any thing in the constitution or laws of any state to the contrary notwithstanding.

The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support

this constitution but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII.

The ratification of the conventions of nine states shall be sufficient for the establishment of this constitution between the states so ratifying the same.

Done in convention, by the unanimous consent of the states present, the 17th day of September, in the year of our Lord 1787, and of the independence of the United States of America, the twelfth. In witness whereof, we have hereunto subscribed our names.

GEORGE WASHINGTON,

President,

And deputy from Virginia.

New Hampshire.

JOHN LANGDON,
NICHOLAS GILMAN.

Massachusetts.

NATHANIEL GORHAM,
RUFUS KING.

Connecticut.

WILLIAM SAMUEL JOHNSON,
ROGER SHERMAN.

New York.

ALEXANDER HAMILTON.

New Jersey.

WILLIAM LIVINGSTON,
DAVID BREARLY,
WILLIAM PATTERSON,
JONATHAN DAYTON.

Pennsylvania.

BENJAMIN FRANKLIN,
THOMAS MIFFLIN,
ROBERT MORRIS,
GEORGE CLYMER,
THOMAS FITZSIMONS,
JARED INGERSOLL,
JAMES WILSON,
GOUVERNEUR MORRIS.

Delaware.

GEORGE READ,
GUNNING BEDFORD, JR.
JOHN DICKINSON,
RICHARD BASSETT,
JACOB BROOM.

Maryland.

JAMES M'HENRY,
DANIEL OF ST. THOMAS JENIFER,
DANIEL CARROLL.

Virginia.

JOHN BLAIR,
JAMES MADISON, JR.

North Carolina.

WILLIAM BLOUNT,
RICHARD DOBBS SPAIGHT,
HUGH WILLIAMSON.

South Carolina.

JOHN RUTLEDGE,
CHARLES COTESWORTH PINCKNEY,
CHARLES PINCKNEY,
PIERCE BUTLER.

Georgia.

WILLIAM FEW,
ABRAHAM BALDWIN.

Attest.

WILLIAM JACKSON,
Secretary.

AMENDMENTS TO THE CONSTITUTION.

The first ten of these amendments were proposed to the legislatures of the several states by the first Congress, which assembled at New York, in March, 1789; the eleventh article was proposed at the second session of the third Congress; the twelfth article at the first session of the eighth Congress; and the thirteenth in 1865. Having been ratified according to the provisions of the fifth Article of the Constitution, these Amendments form an integral portion of that great charter of American liberty and law.

ARTICLE I.

CONGRESS shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

ARTICLE II.

A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

ARTICLE III.

No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

ARTICLE IV.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the places to be searched, and the persons or things to be seized.

ARTICLE V.

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled, in any criminal case, to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

ARTICLE VI.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defence.

ARTICLE VII.

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact tried by a jury shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

ARTICLE VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE IX.

The enumeration in the constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

ARTICLE X.

The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

ARTICLE XI.

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

ARTICLE XII.

The electors shall meet in their respective states, and vote by ballot for president and vice president, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice president; and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice president, and of the number of votes for each, which lists they

shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate; the president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted: the person having the greatest number of votes for president, shall be the president, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as president, the house of representatives shall choose immediately, by ballot, the president. But in choosing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the house of representatives shall not choose a president, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the vice president shall act as president, as in the case of the death or other constitutional disability of the president.

The person having the greatest number of votes as vice president, shall be the vice president, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list, the senate shall choose the vice president: a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice.

But no person constitutionally ineligible to the office of president, shall be eligible to that of vice president of the United States.

ARTICLE XIII.

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XIV.

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United

States; nor shall any State deprive any person of life, liberty or property, without due process of law; nor to deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or members of the Legislature thereof, is denied to any of the male inhabitants of such States, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

ARTICLE XV.

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

THE UNITED STATES

CHAPTER VII.

1787-1788.

THE LAW OF THE LAND.

The Constitution submitted to the people — Opposition anticipated — Marshall's statements respecting the Federalists — Franklin's speech — Washington's sentiments — The people divided into Federalists and Anti-Federalists — The Constitution in Pennsylvania — Its adoption by other States — The Massachusetts Convention — Ratification by New Hampshire — The Virginia Convention — Speeches by Patrick Henry and others — The Virginia bill of rights — The New York Convention — Ratification of North Carolina — The day for appointing electors.

THE report of the Convention, together with the draft of the Constitution and Washington's letter, was received by Congress September 28, 1787. It was "*Resolved*, unanimously, that the said report with the resolutions and letter accompanying the same be transmitted to the several legislatures, in order to be submitted to a convention of delegates, chosen in each State, by the people thereof, in conformity to the resolves of the Convention, made and provided in that case."*

* See the *Journals of Congress*, September 28, 1787; Rives, *Life of Madison*, vol. ii., pp. 477, 480; Story, *Commentaries on the Constitution*, vol. i., pp. 196-198. Adams says: "So cogent were these motives and so forcibly were they compressed within the compass of this preamble, and in the Letter from President Washington to the President of Congress, that this body immediately and unanimously adopted the resolution of the Convention, recommending that the projected Constitution be transmitted to the Legislatures of the several States, to be by them submitted to

It was to be expected that the radical changes adopted by the Convention would experience much opposition when the Constitution was laid before the people; it could not be supposed that the same candid and calm deliberation, the same spirit of concession and compromise, would prevail among the more numerous Legislatures as in the Federal Convention itself, for there was such a great diversity of interest and so much State pride and State feeling that the ratification would necessarily be greatly influenced by these. Nor could it be hoped that the entire body of the people would readily harmonize either on the subject of the

the Conventions of Delegates, to be chosen in each State by the People thereof, under the recommendation of its Legislature, for their assent and ratification. This unanimity of Congress is perhaps the strongest evidence ever manifested of the utter contempt into which the Articles of Confederation had fallen."— *Lives of Madison and Monroe*, p. 35.

organization of the government or with respect to the powers to be granted those entrusted with its administration.* The adoption of the Constitution immediately became a subject of popular discussion, on the one side being hailed with joy and satisfaction as the only remedy for the prevailing distressed conditions,† while on the other hand, it was viewed with feelings of jealousy, distrust and open hostility.‡ Marshall says:

"The friends and enemies of that instrument were stimulated to exertion by motives equally powerful; and, during the interval between its publication and adoption, every faculty of the mind was strained to secure its reception or rejection. The press teemed with the productions of temperate reason, of genius, and of passion; and it was apparent that each party believed power, sovereignty, liberty, peace and security, things

most dear to the human heart, to be staked on the question pending before the public. From that oblivion which is the common destiny of fugitive pieces, treating on subjects which agitate only for the moment, was rescued by its peculiar merit, a series of essays, which first appeared in the papers of New York. To expose the real circumstances of America, and the dangers which hung over the republic; to detect the numerous misrepresentations of the Constitution; to refute the arguments of its opponents; and to confirm and increase its friends by a full and able development of its principles; three gentlemen, Colonel Hamilton, Mr. Madison, and Mr. Jay, distinguished for their political experience, their talents, and their love of union, gave to the public, a series of numbers, which, collected in two volumes, under the title of *The Federalist*, will be read and admired, when the controversy in which that valuable treatise on government originated, shall be no longer remembered."*

The majority of the States promptly acted upon the recommendation of Congress, and during 1787 and 1788 conventions were called to adopt or reject the Constitution. Perhaps never in the history of the country were opposing views advocated with such great force and eloquence, and in many of the conventions the two parties in favor of and against the Constitution were so evenly balanced that its fate was undecided for several months. In a number of cases the adoption was secured by a very small margin, and in several instances amendments were suggested in the form of bills of

* See the chapter entitled "Objections to the Constitution," in Story, *Commentaries on the Constitution*, vol. i., pp. 206-220.

† On September 30 Edmund Randolph wrote Madison as follows: "Baltimore resounds with friendships for the new Constitution * * *. In Bladensburg the Constitution is approved. In Alexandria the inhabitants are enthusiastic, and instructions to force my dissenting colleagues to assent to a convention are on the anvil."—Conway, *Edmund Randolph*, p. 95. See also Madison's letter to Jefferson, *Madison's Works* (Congress ed.), vol. i., pp. 354-356, also pp. 364-366, 368, 369-371, 373-374, 375, 376.

‡ In a private memorandum drawn up by Hamilton in which he summed up the probabilities for and against the adoption of the Constitution, and in which he spoke of the events likely to occur if it were rejected, he said: "A reunion with Great Britain, from universal disgust at a state of commotion, is not impossible, though not much to be feared. The most plausible shape of such a business would be the establishment of a son of the present monarch in the supreme government of this country, with a family compact."—*Works*, vol. ii., pp. 419, 421.

* Marshall, *Life of Washington*, vol. ii., p. 127. On the authorship of the various articles see Bancroft, vol. vi., pp. 452-454; Curtis, *Constitutional History*, vol. i., pp. 280-281, 631; Adams, *Lives of Madison and Monroe*, p. 40 et seq.; Madison's *Works* (Congress ed.), vol. iii., pp. 99, 100, 126; vol. iv., pp. 115, 116, 176.

rights which showed how reluctant the people were to adopt a form of government which should be practically everlasting. Marshall says that "the interesting nature of the question, the equality of the parties, the animation produced inevitably by ardent debate, had a necessary tendency to embitter the dispositions of the vanquished, and to fix more deeply, in many bosoms, their prejudices against a plan of government, in opposition to which, all their passions were enlisted."*

The views of the various statesmen were widely divergent. No one was entirely satisfied with every part of the Constitution, but all seemed to be convinced that it was the best that could be devised under the circumstances and that it was well worth the concessions and compromises which they had been called upon to

make. In a speech at the close of the Convention,* Franklin said:

"I confess there are several parts of this constitution which I do not at present approve, but I am not sure I shall never approve them: For having lived long, I have experienced many instances of being obliged by better information or fuller consideration to change opinions even on important subjects, which I once thought right, but found to be otherwise. It is therefore that the older I grow, the more apt I am to doubt my own judgment, and to pay more respect to the judgment of others. Most men indeed as well as most sects in Religion think themselves in possession of all truth and that wherever others differ from them it is so far error. Steele, a Protestant, in a Dedication, tells the Pope that the only difference between our Churches in their opinions of the certainty of their doctrines is, the Church of Rome is infallible and the Church of England is never in the wrong. But though many private persons think almost as highly of their own infallibility as of that of their sect, few express it so naturally as a certain French lady, who in a dispute with her sister, said I don't know how it happens, Sister, but I meet with nobody but myself, that is always in the right * * *."

"In these sentiments, Sir, I agree to this Constitution with all its faults, if there are such; because I think a general Government necessary for us, and there is no form of Government but what may be a blessing to the people if well administered, and believe farther that this is likely to be well administered for a course of years, and can only end in Despotism, as other forms have done before it, when the people shall become so corrupted as to need despotic Government, being incapable of any other. I doubt, too, whether any other Convention we can obtain may be able to make a better Constitution. For when you assemble a number of men to have the advantage of their joint wisdom, you inevitably assemble with those men, all their prejudices, their passions, their errors of opinion, their local interests, and their selfish views. From such an assembly can a perfect production be expected? It therefore astonishes me, Sir, to find this system approaching so near to perfection as it does; and I think it will astonish our enemies, who are waiting with confidence to hear that our councils are confounded like those of the Builders of Babel;

* "It may be in me," said Hamilton, in concluding the last number of the *Federalist*, "a defect of political fortitude, but I acknowledge that I cannot entertain an equal tranquillity with those who affect to treat the dangers of a longer continuance in our present situation as imaginary. A NATION, without a NATIONAL GOVERNMENT, is an awful spectacle. The establishment of a Constitution, in time of profound peace, by the voluntary consent of a whole people, is a *prodigy*, to the completion of which I look forward with trembling anxiety. In so arduous an enterprise, I can reconcile it to no rules of prudence, to let go the hold we now have upon seven out of the thirteen states; and after having passed over so considerable a part of the ground, to recommence the course. I dread the more the consequences of new attempts, because I KNOW that POWERFUL INDIVIDUALS, in this, and in other states, are enemies to a general national government in every possible shape."—*The Federalist*, p. 404.

* Sparks. *Life of Franklin*, p. 518; Hunt, *Madison's Journal*, vol. ii., pp. 389-391.

and that our States are on the point of separation, only to meet hereafter for the purpose of cutting one another's throats. Thus I consent, Sir, to this Constitution because I expect no better, and because I am not sure, that it is not the best. The opinions I have had of its errors, I sacrifice to the public good. I have never whispered a syllable of them abroad. Within these walls they were born, and here they shall die. If every one of us in returning to our Constituents were to report the objections he has had to it and endeavor to gain partizans in support of them, we might prevent its being generally received, and thereby lose all the salutary effects & great advantages resulting naturally in our favor among foreign nations as well as among ourselves. Much of the strength & efficiency of any Government in providing and securing happiness to the peoples depends, on opinion, on the general opinion of the goodness of the Government, as well as of its wisdom and integrity of its Governors. I hope therefore that for our own sakes as a part of the people, and for the sake of posterity, we shall act heartily and unanimously in recommending this Constitution (if approved by Congress & confirmed by the Conventions) wherever our influence may extend, and turn our future thoughts & endeavors to the means of having it well administered.

"On the whole, Sir, I cannot help expressing a wish that every member of the Convention who may still have objections to it, would with me, on this occasion doubt a little of his own infallibility, and to make manifest our unanimity, put his name to this instrument." *

* In a letter to Adams, Jefferson wrote: "How do you like our new Constitution? I confess there are things in it which stagger all my dispositions to subscribe to what such an assembly has proposed. The House of Federal Representatives will not be adequate to the management of affairs, either foreign or federal. Their president seems a bad edition of a Polish king. He may be elected from four years to four years for life. Reason and experience prove to us, that a chief magistrate, so continuable, is an office for life," etc. It may be worth noting, that Jefferson's views changed entirely as to this latter point, seeing that he himself did not object to serve a second term as President of the United States. See Tucker, *Life of Jefferson*, vol. i., pp. 252-256; Ford's ed. of *Jefferson's Writings*, vol. iv., p. 454; also his letters to Madison, *ibid*, vol. iv., pp. 475-479; to Carrington, pp. 481-482; and for other views, vol. i., p. 109, vol. iv., p. 470, vol. v., pp.

Writing to friends in France, he said:

"It is very possible, as you suppose, that all the articles of the proposed new government will not remain unchanged after the first meeting of the Congress. I am of opinion with you, that the *two* chambers were not necessary, and I disliked some other articles that are in, and wished for some that are not in the proposed plan; I nevertheless hope it may be adopted." "Our public affairs begin to wear a more quiet aspect. The disputes about the faults of the new Constitution are subsided. The first Congress will probably mend the principal ones, and future Congresses the rest. That which you mentioned did not pass unnoticed in the Convention. Many, if I remember right, were for making the president incapable of being chosen after the first four years; but the majority were for leaving the electors free to choose whom they pleased; and it was alleged that such incapacity might tend to make the president less attentive to the duties of his office, and to the interests of the people, than he would be, if a second choice depended on their good opinion of him. We are *making experiments* in politics; what knowledge we shall gain by them will be more certain, though perhaps we may hazard too much in *that* mode of acquiring it."

In a letter to Charles Carroll, he said:

"If any form of government is capable of making a nation happy, ours, I think, bids fair now for producing that effect. But, after all, much depends upon the people who are to be governed. We have been guarding against an evil that old states are most liable to, *excess of power* in the rulers; but our present danger seems to be *defect of obedience* in the subjects. There is hope, however from the enlightened state of this age and country, we may guard effectually against that evil as well as the rest."

Washington's sentiments were well known and are further exhibited in his correspondence. Writing to Patrick Henry, he said:

"Your own judgment will at once discern the good and the exceptional parts of it; and your experience of the difficulties which have ever

5, 11, 19, 25, 76, 475, 484, vol. vi., pp. 104, 123, vol. vii., p. 327, vol. viii., p. 159.

arisen, when attempts have been made to reconcile such a variety of interests and local prejudices as pervade the several states, will render explanation unnecessary. I wish the Constitution which is offered, had been more perfect; but I sincerely believe it is the best that could be obtained at this time. And, as a constitutional door is opened for amendments hereafter, the adoption of it under the present circumstances of the Union is, in my opinion, desirable."

To the Marquis de Chastelleux, he wrote:

"Should it be adopted, and I think it will be, America will lift up her head again, and in a few years become respectable among nations."

Again he wrote:

"There are some things in the new form, I will readily acknowledge, which never did, and I am persuaded never will, obtain my cordial approbations; but I did then conceive, and do now most firmly believe, that in the aggregate it is the best Constitution, that can be obtained at this epoch; and that this, or a dissolution, awaits our choice, and is the only alternative." *

To Lafayette he expressed himself with still greater frankness and earnestness, as follows:

"I expect that many blessings will be attributed to our new government, which are now taking their rise from that industry and frugality, into the practice of which the people have been forced from necessity. I really believe, that there never was so much labor and economy to be found before in the country as at the present moment. If they persist in the habits they are acquiring, the good effects will soon be distinguishable. When the people shall find themselves secure under an energetic government, when foreign nations shall be disposed to give us equal advantages in commerce from dread of retaliation, when the burdens of war shall be in a manner done away by the sale of western lands, when the seeds of happiness which are sown here, shall begin to expand themselves, and when every one under his own vine and fig-tree, shall begin to taste the fruits of freedom, then all these blessings

(for all these blessings will come) will be referred to the fostering influence of the new government. Whereas many causes will have conspired to produce them. You see I am not less enthusiastic than I ever have been, if a belief that peculiar scenes of felicity are reserved for this country is to be denominated enthusiasm. Indeed, I do not believe that Providence has done so much for nothing. It has always been my creed, that we should not be left as a monument to prove, 'that mankind, under the most favorable circumstances for civil liberty and happiness, are unequal to the task of governing themselves and therefore made for a master.'"

Previous to this time the people had been divided by political opinions into at least two classes, but the issues which then divided them were purely local. There were the opponents and advocates of the impost; there were hard-money and soft-money men, etc.; but both sides were ardent Whigs. There were those, too, who feared the development of the West or disliked the growing power of commercial New England; there were those who opposed the closing of the Mississippi and hated to see the Federal power increased and the complete power to make treaties bestowed upon the central government; there were those again who saw no need for a central government with power of taxation and authority to levy customs duties or to regulate commerce in any way; and, finally, there were those who were "liberty blind"—who had prated so much about liberty that they had either unlearned or forgotten the arguments for government. But now a national issue was raised and the Whig party was split into Federalists and Anti-

* Sparks, *Life of Washington*, p. 403; Lodge, *George Washington*, vol. ii., pp. 38-39.

Federalists; the two sections of a one time harmonious and powerful party began to draw farther and farther apart, forming the basis of two great national parties, which, under different names and upon widely different platforms, have from that time to the present struggled for supremacy.* That the Federalists might win it was necessary that nine of the thirteen States should ratify. That there had been unanimity in Congress meant little, for it had been agreed that they should waive all expression of approval or disapproval and leave the sovereign members of the Confederacy to act as the people should deem best. The Federalists did not claim that the proposed Constitution would remedy every existing evil or nationalize and consolidate the Union, but they stressed the point that it promised to restore civil order and bring harmony and order out of chaos. They said that it was the best obtainable and sought to persuade the people to accept it because without it disunion would follow.† The Federalists were well organized and acted on the initiative, whereas the Anti-Federalists had hastily banded

together to act on the defensive and had no feasible propositions to advance as a substitute for the Constitution now before the country for approval. With a few exceptions, the Federalists had the ablest writers and most forcible speakers, and for the next ten months the adoption of the new Constitution was sharply debated.*

Pennsylvania was the scene of the first conflict, though she was not the first to adopt. Hardly a day had passed, after the Constitution was submitted to the people for approval, before George Clymer, on September 28, 1787, moved in the Assembly that a convention be held to consider the Constitution. The Anti-Federalists raised objections and attempted to block the passage of the resolution by absenting themselves so as to prevent a quorum. As the Federalists lacked the necessary members to make a quorum of the Assembly, two of the opposition were forced into their seats and the resolution was passed by a vote of 45 to 2.‡ The date of election of delegates to the convention was the first Tuesday in November and November 20 was set for the convention itself.§ After a hard bitter canvass by the opposing candidates, the elections were held

* On the origin of the terms "Federalist" and "Anti-Federalist," see Curtis, *Constitutional History*, vol. i., p. 627. See also Fiske, *Critical Period*, pp. 308-309.

† Madison said: "I have for some time been persuaded that the question on which the proposed Constitution must turn, is the simple one, whether the Union shall or shall not be continued. There is, in my opinion, no middle ground to be taken."—Madison's *Works* (Congress ed.), vol. i., p. 381; Gay, *Life of Madison*, p. 116.

* Schouler, *United States*, vol. i., pp. 61-62.

‡ Sharpless, *Two Centuries of Pennsylvania History*, pp. 227-228; Wescott, *Historic Mansions*, p. 124; Baneroft, vol. vi., p. 391; Fiske, *Critical Period*, pp. 310-312; Thorpe, *Story of the Constitution*, pp. 151-152.

§ McMaster, *United States*, vol. i., pp. 455-457.

and resulted in the success of the Federalists.* An acrimonious debate in the press and in the shape of pamphlets on both sides of the question had meanwhile been carried on and every conceivable argument was used both in favor of and against the adoption.† There were papers by "Homespun," "American Citizens," "Turk," "Tar and Feathers," "John Humble, Secretary," "Gaul," "Briton," "One of the People," "Federal Constitution" and scores of others. The Anti-Federalists were assisted by Richard Henry Lee, who published a series of papers entitled *Letters from the Federal Farmer*, thousands of copies of which were scattered throughout Pennsylvania. His chief objections were that he saw in the proposed plan the seeds of democracy and centralization; that in the National legislature the vote was to be by individuals and not by States; that this body had an unlimited power of taxation; that the Federal judiciary had too much power; that the members were to be paid out of the National treasury and would thus be independent of their own States; that an oath of allegiance to the Federal government was required; and that no bill of rights was included.‡ "Turk" said: "Your President general will greatly resemble in his powers the mighty Ahdul

Ahmed, our august Sultan—the Senate will be his divan—your standing army will come in place of our janizaries—your judges unchecked by vile juries might with great propriety be styled cadis."* Pelatiah Webster and a few others put forth some powerful arguments in favor of the Constitution, and James Wilson made a speech before a mass meeting in the state house at Philadelphia "remarkable among the speeches at that troubled time for coolness of reasoning and dignity of language."† Wilson did not have Hamilton's political genius nor Madison's talent for debate and constitutional analysis, but in the comprehensiveness of his views and in the perception of the necessities of the country he fully equalled them and was one of their most efficient and best informed coadjutors.‡

On November 20 the Convention assembled and a stormy session began, the members at various times almost coming to blows. Wilson and Thomas McKean led the Federalists; the Antis were led by Robert Whitehill, John Smilie and William Findley. So obstructive did the tactics of the Antis become that the Federalists grew enraged. Hour after hour was wasted by each side in abusing the other and whole days were spent

* McLaughlin, *The Confederation and the Constitution*, p. 281.

* See McMaster, pp. 458–460.
 † Fiske, *Critical Period*, p. 312; McMaster, pp. 461–472.

‡ McMaster, *United States*, vol. i., p. 463. See also Thorpe, *Story of the Constitution*, p. 153.

‡ Curtis, *Constitutional History*, vol. i., p. 642.

‡ Fiske, *Critical Period*, pp. 313–314.

in discussing the meaning of simple words. In this way three weeks quickly passed. The chief objections to the Constitution were the omission of a bill of rights and because the existence of the States was endangered by the consolidation of the government.* The Antis also inveighed against the infrequency of elections, the exclusive authority of Congress and the powers of the judiciary. Wilson bore the brunt of the contest and made some remarkable speeches.† After three weeks of discussion, the Anti-Federalists offered fifteen amendments and proposed that the convention be adjourned so that the people of the State might discuss and approve or reject them. The Federalists resisted all such dilatory tactics, and by insisting upon an immediate rejection or ratification finally succeeded, December 12, 1787, in obtaining a ratification by a vote of 46 to 23.‡ Excitement was high and it was claimed by the Anti-Federalists that the convention was illegal because of the use of force in the Legislature to secure a quorum to pass the resolution for calling the convention, because only 13,000 out of 70,000 voters in the State had

voted for delegates to the convention, and because though 46 delegates had voted to ratify, these 46 represented only 6,800 constituents. Several riots occurred between the adherents of the two parties and a number of dinners and processions were held to express joy at the favorable action.*

In the meantime, on December 7, the Constitution was unanimously ratified by Delaware (the first State to ratify), and she was followed on the 18th of the same month by New Jersey without a dissenting voice, and by Georgia on January 2, 1788, without an amendment or an adverse vote. On January 9, 1788, the Connecticut convention, after a stormy session of five days, also gave a large majority in favor of adoption, the vote standing 128 to 40. On April 28, 1788, after a sharp struggle, Maryland ratified by a vote of 63 to 11 (the minority, however, proposing 28 amendments); South Carolina ratified May 23 by a vote of 140 to 73 (with 4 amendments proposed).† The chief struggles were in Massachusetts, New Hampshire, Virginia, New York, and North Carolina, while

* McMaster and Stone, *Pennsylvania and the Federal Constitution, 1787-1788* (1888), p. 268.

† For some of the important features of these speeches, see Elliot, *Debates*, vol. ii., p. 422; McMaster and Stone, *Pennsylvania and the Federal Constitution*, pp. 221, 227, 316, 415.

‡ Elliot, *Debates*, vol. i., p. 319. See also Sharpless, *Two Centuries of Pennsylvania History*, p. 228; McLaughlin, *The Confederation and the Constitution*, pp. 285-287.

* McMaster, *United States*, vol. i., pp. 472-475. See also McMaster and Stone, *Pennsylvania and the Federal Constitution*, p. 429.

† For the details of the conventions in these States, see Bancroft, vol. vi., pp. 381-395, 415-420; McMaster, vol. i., pp. 474-476, 485-489; Curtis, *Constitutional History*, vol. i., chap. xxxiv. See also Orin G. Libby, *The Geographical Distribution of the Vote of the Thirteen States on the Federal Constitution, 1787-1788*, in *University of Wisconsin Bulletins in Economics, Political Science and History*, series i., no. i. (1894).

Rhode Island refused to call a convention.*

The convention of Massachusetts opened in January 1788, and the Constitution was discussed paragraph by paragraph. It was supposed that if the Massachusetts convention should ratify, the other States would be greatly influenced to act favorably upon this important question. Most of the prominent men of the State were members of the convention, such men as James Bowdoin, Rufus King, and Fisher Ames advocating the Constitution, while opposed to them were men of no less courage and ability. John Hancock gave the Federalists only lukewarm support. Samuel Adams strongly opposed the Constitution, while Nathaniel Dane had denounced it and Gerry had refused to sign it.† As Schouler says, the very preponderance of learning, wealth, renown, and social respectability of the Federalists more closely united the opposition forces, jealous of city cliques, whose votes and influence could not be ignored.‡ The subject was debated for an entire month and even then it was uncertain as to just what course the convention would follow.¶

One of the members speaks of the opposition as follows:

"Never was there an assembly in this state in possession of greater abilities and information, than the present Convention; yet I am in doubt whether they will approve the Constitution. There are unhappily three parties opposed to it. 1. All men who are in favor of paper money and tender laws. These are more or less in every part of the state. 2. All the late insurgents, and their abettors. We have in the Convention eighteen or twenty who were actually in Shays's army. 3. A great majority of the members from the province of Maine. Many of them and their constituents are only *squatters* upon other people's land, and they are afraid of being brought to account. They also think, though erroneously, that their favorite plan of being a separate state, will be defeated. Add to these, the honest doubting people, and they make a powerful host."*

The proceedings began with a desultory debate on the various parts of the instrument, which lasted until January 30,† the friends of the Constitution having carefully provided at the outset that no separate question should be taken. After discussion

* See also Fiske, *Critical Period*, pp. 316-320.

† In the debate concerning the army, one of the Maine delegates said: "Had I the voice of Jove I would proclaim it throughout the world; and had I an arm like Jove, I would hurl from the globe those villains that would dare attempt to establish in our country a standing army." Fear was expressed that the government would come into the hands of knaves, but Samuel West, a delegate from New Bedford, said: "I wish that the gentlemen who have started so many *possible* objections would try to show us that what they so much deprecate is *probable*. * * * Because power *may* be abused, shall we be reduced to anarchy? What hinders our state legislatures from abusing their powers? * * * May we not rationally suppose that the persons we shall choose to administer the government will be, in general, good men?" Abraham White of Bristol, however, said: "I would not trust them though every one of them should be a Moses." See Fiske, *Critical Period*, pp. 321-324.

* Richman, *Rhode Island*, p. 254; Bates, *Rhode Island and the Formation of the Union*, p. 162 *et seq.*

† See McLaughlin, *The Confederation and the Constitution*, pp. 292-293; Thorpe, *Story of the Constitution*, p. 154; Curtis, *Constitutional History*, vol. i., p. 648 *et seq.*

‡ Schouler, *United States*, vol. i., p. 67.

¶ On the proceedings see Bancroft, vol. vi., pp. 395-408; Elliot, *Debates*, vol. ii.

had been exhausted, Theophilus Parsons moved that the instrument be assented to and ratified. One or two general speeches followed this motion and then Hancock, who had previously been detained by illness but who had taken his seat as president of the convention, descended from the chair and, with some conciliatory assertions, proposed some amendments which should later be incorporated into the Constitution. He brought these amendments forward, he said, to quiet the apprehensions and remove the doubts of gentlemen "relying on their candor to bear him witness that his wishes for a good constitution were sincere." But his proposed form of ratification contained a distinct and separate acceptance of the Constitution, and the amendments followed it, with a recommendation that they be "introduced into the said Constitution." * Hancock's proposition gave a new aspect to the matter, and the amendments were referred to a committee and reported with some alterations. The result was that some of the members of the Convention like Samuel Adams, who had previously opposed the Constitution, now became its warm advocates.† Jonathan Smith, a liberal-minded farmer of Lanesborough, stated the case almost as forcibly as Fisher

Ames, with all his eloquence. Said he:

"I am a plain man, and am not used to speak in public, but I am going to show the effects of anarchy, that you may see why I wish for a good government. Last winter people took up arms, and then, if you went to speak to them, you had the musket of death presented to your breast. They would rob you of your property, threaten to burn your houses, oblige you to be on your guard night and day. Alarms spread from town to town, families were broken up; the tender mother would cry 'Oh, my son is among them! What shall I do for my child?' Some were taken captive; children taken out of their schools and carried away. * * * How dreadful was this! Our distress was so great that we should have been glad to snatch at anything that looked like a government. * * * Now, Mr. President, when I saw this Constitution, I found that it was a cure for these disorders. I got a copy of it, and read it over and over. * * * I did not go to any lawyer, to ask his opinion; we have no lawyer in our town and we do well enough without. My honourable old daddy there, won't think that I expect to be a Congressman, and swallow up the liberties of the people. I never had any post, nor do I want one. But I don't think the worse of the Constitution because lawyers, and men of learning, and moneyed men are fond of it. I am not of such a jealous make. They that are honest men themselves are not apt to suspect other people. * * * Brother farmers, let us suppose a case, now. Suppose you had a farm of fifty acres, and your title was disputed, and there was a farm of five thousand acres joined to you that belonged to a man of learning, and his title was involved in the same difficulty: would you not be glad to have him for your friend rather than stand alone in the dispute? Well, the case is the same. These lawyers, these moneyed men of learning are all embarked in the same cause with us, and we must all sink or swim together. Shall we throw the Constitution overboard because it does not please us all alike? Suppose two or three of you had been at the pains to break up a piece of rough land and sow it with wheat: would you let it lie waste because you could not agree what sort of a fence to make? Would it not be better to put up a fence that did not please every one's fancy, rather than keep disputing about it until the wild beasts came in and devoured the crop? Some gentlemen say, Don't be in a hurry; take time to consider. I say, There is a time to sow and a time to reap. We sowed our seed when we sent men

* Curtis, *Constitutional History*, vol. i., pp. 653-654.

† Elliot, *Debates*, vol. ii., p. 123; McMaster, *United States*, vol. i., pp. 478-479; Thorpe, *Story of the Constitution*, p. 157.

to the Federal Convention, now is the time to reap the fruit of our labors; and if we do not do it now, I am afraid we shall never have another opportunity." *

Fisher Ames then arose and asked for an immediate adoption of the Constitution, pointing out the danger of delay and the pending disaster which threatened the whole country should the Constitution fail to be ratified by the necessary number of States. He said:

"Shall we put every thing to hazard by rejecting this Constitution? We have great advantages by it in respect of navigation; and it is the general interest of the states that we should have them. But if we reject it, what security have we that we shall obtain them a second time against the local interests and prejudices of the other states? Who is there that really loves liberty, that will not tremble for its safety, if the federal government should be dissolved? Can liberty be safe without government? * * * The union is essential to our being as a nation. The pillars that prop it are crumbling to powder. The union is the vital sap that nourishes the tree. If we reject the Constitution, to use the language of the country, we girdle the tree, its leaves will wither, its branches drop off, and the mouldering trunk will be torn down by the tempest. What security has this single state against foreign enemies? Could we defend the vast country, which the British so much desire? Can we protect our fisheries, or secure by treaties a sale of the produce of our lands in foreign markets? Is there no loss, no danger, by delay? In spite of our negligence and perverseness, are we to enjoy *at all times* the privilege of forming a Constitution, which no other nation has enjoyed at all? We approve our own form of government, and seem to think ourselves in safety under its protection. We talk as if there was no danger of deciding wrong. But when the inundation comes, shall we stand on dry land? The state government is a beautiful structure. It is situated, however, on the naked beach. The union is the dyke to fence out the flood. That dyke is broken and decayed, and if we do not repair it, when the next spring tide comes, we shall be buried in one common ruin."

The long delay in the decision of the Massachusetts convention had raised the excitement to fever heat throughout the country. Not only were the New England people anxiously awaiting news of the action of the convention, but intrigues were going on as far south as Virginia to influence the result. On January 21 the *Boston Gazette* appeared with flaring headlines—"BRIBERY AND CORRUPTION!!! The most diabolical plan is on foot to corrupt the members of the convention who oppose the adoption of the new Constitution. Large sums of money have been brought from a neighboring state for that purpose, contributed by the wealthy. If so, is it not probable that there may be collections for the same accursed purpose nearer home?" * However this might have been, it is certain that Richard Henry Lee wrote to Gerry urging that the Constitution should not be adopted without insisting upon various amendments; and, in order to consider these amendments, it was suggested that another Federal Convention be held. Washington, however, offset the influence of this suggestion by writing:

"If another Federal Convention is attempted, its members will be more discordant and will agree upon no general plan. The Constitution is the best that can be obtained at this time. * * * The Constitution or disunion are before us to choose from. If the Constitution is our choice, a constitutional door is open for amendments, and they may be adopted in a peaceable manner without tumult or disorder."

* See Fiske, *Critical Period*, pp. 324-326.

* Fiske, *Critical Period*, p. 328.

Among the objections were the lack of a bill of rights, the failure to guarantee religious liberty, freedom of speech or of the press, or the right of the people peaceably to assemble and to petition for a redress of grievances. It did not provide against the odious "Quartering Act" nor against general search-warrants, and did not in unmistakable terms prescribe the methods by which persons should be tried for criminal offences. No provision was made against burning at the stake, or stretching on the rack, or peculiar religious opinions. The friends of the Constitution therefore suggested that amendments be proposed which should contain the essential provisions of a bill of rights. As we have seen, as soon as this plan was matured, Hancock presented it to the convention, and in this way the first ten amendments originated, which were acted upon by Congress in 1790 and became part of the Constitution in 1791.*

A vote being taken on February 6 the friends of adoption carried the Convention by a vote of 187 to 168.† In transmitting to Congress

* The reader will find these amendments in the Supplement to the *Journal of the Federal Convention*, pp. 401-404.

† Schouler, *United States*, vol. i., p. 68; Elliot's *Debates*, vol. ii., p. 181. See also Lincoln's letter to Washington, in Sparks, *Correspondence of the Revolution*, vol. iv., pp. 208-209; McMaster, vol. i., p. 479; Samuel B. Harding, *The Contest over the Ratification of the Federal Constitution in the State of Massachusetts*, in *Harvard Historical Studies* (1896); *Debates and Proceedings in the Convention of the Commonwealth of Massachusetts* (1856); Madison's *Works*, vol. i., p. 377.

their assent and ratification, the members said: "The Convention do, in the name and behalf of the people of this Commonwealth, enjoin it upon their representatives in Congress at all times, until the alterations and provisions aforesaid have been considered agreeable to the fifth article of the said Constitution, to exert all their influence, and use all reasonable and legal methods to obtain a ratification of the said alterations and provisions, in such manner as is provided in the said article." Following the ratification, the people of Boston celebrated the event by public ceremonies and festivities. On February 17 a procession of 5,000 people paraded the streets, those comprising the procession consisting of all the trades of the town and its neighborhood, each with its appropriate decorations, emblems and mottoes. In the centre of the pageant was a ship, the *Federal Constitution*, with colors flying, and attended by the merchants, captains, and seamen of the port. On the 18th a public banquet was held, at which each of the States that had then adopted the Constitution was separately toasted, and those who had opposed the adoption praised for their patriotic submission.

Shortly after the ratification by Massachusetts, the New Hampshire convention assembled, but almost immediately adjourned until the third

Wednesday in June,* "this expedient being found necessary to prevent a rejection."† In that month the convention reassembled, and on the 21st the Constitution was ratified with twelve proposed amendments by a majority of eleven only,‡ and in substantially the same form and manner set forth by Massachusetts. In addition to the amendments proposed by Massachusetts, New Hampshire recommended that no standing army be maintained in time of peace, unless three-fourths of the members of both Houses of Congress should consent; that during times of peace no soldiers should be quartered in private houses without the consent of the owners; and that Congress should make no laws respecting religion, or infringing the rights of conscience; nor disarm any citizen unless such citizen had been in actual rebellion.||

On June 2 the convention of Virginia met and Edmund Pendleton was chosen president. Among those opposing the adoption were Patrick Henry, James Monroe, George Mason, Benjamin Harrison, John

Tyler, William Grayson, and others, while in the ranks of the Federalists were Madison, Marshall, Pendleton, Edmund Randolph, George Wythe, Francis Corbin, George Nicholas, and others.* Washington was a silent watchman on the Federal side. He had taken no part in the political contest following the Constitutional Con-

* Writing to Madison, Randolph said: "The first raptures in favor of the Constitution were excessive. Every town resounded with applause. The conjectures of my reasons for refusing to sign were extraordinary, and so far malicious as to suppose that I was chagrined at not carrying every point in my own way, or that I sought for popularity. These were the effluvia until the Assembly met. A diversity of opinion appeared immediately on the convening of that body. * * * Among the heroes of the opposition were Mr. Henry, Mr. William Cabell, Col. Bland, and Mr. Franck Strother. * * * At present the final event seems uncertain. There are many warm friends for taking the Constitution altogether, without the alteration of a letter; * * * But I suspect the tide is turning. New objections are daily started and the opinions of Mr. Henry gain ground. * * * Mr. Mason has declared in Assembly that, although he is for amendments, he will not quit the Union even if they should not be made. I have thought proper to postpone any explanation of myself, except in private, until everything is determined which may relate to the Constitution. * * * I see the Pennsylvania papers abounding with eulogiums on some and execrations on others, whose opinions they know not substantially. Mr. Pendleton, who is here, has expressed himself to this effect,—that this Constitution is very full of radical faults, and that he would adopt it with a protest as to its imperfections, in order that they may be corrected at a future day. The bar are generally against it; so are the judges of the General Court. So is Wiley Jones, of North Carolina. In short, I am persuaded that there must be strong exertions made to carry it through. * * * The people of this town [Richmond] are still in a rage for the Constitution, and Harrison among the most strenuous." —Conway, *Edmund Randolph*, pp. 95-97. See also Madison's *Works* (Congress ed.), vol. i., pp. 378, 387-388.

* Bancroft, vol. vi., pp. 409-410; Langdon's letter, in Sparks, *Correspondence of the Revolution*, vol. iv., pp. 211-212; McMaster, vol. i., p. 484.

† Madison to Pendleton, March 3, 1788. Madison's *Works* (Congress ed.), vol. i., p. 382, also p. 383.

‡ The vote was 57 to 46. See Tobias Lear's letter in Sparks, *Correspondence of the Revolution*, vol. iv., pp. 224-226; also McMaster, vol. i., pp. 487-488; Elliot, *Debates*, vol. iv., p. 573; Joseph B. Walker, *A History of the New Hampshire Convention* (1888).

|| Bancroft, vol. vi., pp. 437-438.

vention, but his personality was all-pervading. On his return from Mt. Vernon, he mailed a copy of the Constitution to Henry with his endorsement, as being the best obtainable, but his arguments failed to convince Henry.* As Washington was not a member of the ratifying convention, the main reliance of the Federalists was Madison. Though lacking in the graces of oratory, Madison was not wanting in the power of persuasion. "His arguments were often, if not always, prepared with care. If there was no play of fancy, there was no forgetfulness of facts. If there was a lack of imagination, there was none of historical illustration, when the subject admitted it. If manner was forgotten, method was not. His aim was to prove and to hold fast [to that which is true]; to make the wrong clear, and to put the right in its place; to appeal to reason, not to passion, nor to prejudice; to try his cause by the light of clear logic, hard facts, and sound learning; to convince his hearers of the truth, as he believed in it, not to take their judgment captive by surprise with harmonious modulation and grace of movement."†

* See Sparks' ed. of *Washington's Writings*, vol. ix., pp. 265-266; Ford's ed. of *Washington's Writings*, vol. xi., p. 165; and for Henry's reply, Tyler, *Life of Patrick Henry*, pp. 279-280. See also Sparks, vol. ix., pp. 273, 356; Madison's *Works* (Congress ed.), vol. i., pp. 356, 364-365, 378, 387-388; Henry, *Life of Patrick Henry*, vol. ii., pp. 319-321; Hunt, *Life of Madison*, p. 142.

† Gay, *Life of Madison*, p. 118.

Pendleton, Marshall and Jefferson by their well chosen words made a favorable impression.* Jefferson, in a letter to William Carmichael, said: "It will be more difficult if we lose this instrument, to recover what is good in it than to correct what is bad, after we shall have adopted it. It has therefore my hearty prayers."† John Quincy Adams says:

"A deeper interest was involved in the decision of Virginia, than in that of any other member of the Confederacy, and in no State had the opposition to the plan been so deep, so extensive, so formidable as there. Two of her citizens, second only to Washington by the weight of their characters, the splendor of their public services, and the reputation of their genius and talents, Patrick Henry, the first herald of the Revolution in the South, as James Otis had been at the North, and Thomas Jefferson, the author of the Declaration of Independence, and the most intimate and confidential friend of Madison himself, disapproved the Constitution. Jefferson was indeed at that time absent from the State and the country, as the representative of the United States at the Court of France. His objections to the Constitution were less fervent and radical. Patrick Henry's opposition was to the whole plan, and to its fundamental principle, the change from a Confederation of Independent States, to a complicated government, partly federal, and partly national. He was a member of the Virginia Convention; and there it was that Mr. Madison was destined to meet and encounter, and overcome the all but irresistible power of his eloquence, and the inexhaustible resources of his gigantic mind.

"The debates in the Virginia Convention furnish an exposition of the principles of the Constitution, and a commentary upon its provisions not inferior to the papers of the Federalist. Patrick Henry pursued his hostility to the system into all its details; objecting not only to the Preamble and the first Article, but to the Senate, to the President, to the Judicial Power, to the treaty making power, to the control given to Congress

* Schouler, *United States*, vol. i., pp. 71-72; Fiske, *Critical Period*, p. 336 *et seq.*

† Ford's ed. of *Jefferson's Writings*, vol. v., p. 25; Schouler, pp. 73-74.

over the militia, and especially to the omission of a Bill of Rights — seconded and sustained with great ability by George Mason, who had been a member of the Convention which formed the Constitution, by James Monroe and William Grayson, there was not a controvertible point, real or imaginary, in the whole instrument which escaped their embittered opposition; while upon every point Mr. Madison was prepared to meet them, with cogent argument, with intent and anxious feeling, and with mild, conciliatory gentleness of temper, disarming the adversary by the very act of seeming to decline contention with him. Mr. Madison, devoted himself particularly to the task of answering and replying to the objections of Patrick Henry, following him step by step, and meeting him at every turn. His principal coadjutors were Governor Randolph, Edmund Pendleton, the President of the Convention, John Marshall, George Nicholas, and Henry Lee of Westmoreland. Never was there assembled in Virginia a body of men, of more surpassing talent, of bolder energy, or of purer integrity than in that Convention. The volume of their debates should be the pocket and the pillow companion of every youthful American aspiring to the honor of rendering important service to his country; and there, as he reads and meditates, will he not fail to perceive the steady, unfaltering mind of James Madison, marching from victory to victory, over the dazzling but then beclouded genius and eloquence of Patrick Henry.” *

Patrick Henry was the spokesman of the Anti-Federalists in this Convention and he spoke frequently and forcefully in condemnation of the proposed Constitution, bringing into play all his persuasive powers to prevent its adoption.† The struggle was mainly a combat between Henry,

Madison, and Randolph. In argumentative powers Randolph and Henry were nearly matched, but Randolph was heavily handicapped by his record as a recusant and by the principles he had vainly defended in the Convention at Philadelphia. Randolph’s strongest weapon was peril of disunion, for if in the Union, amendments could be obtained, but if out of it, none. But on the other hand Randolph was burdened by the fact that he had profoundly differed from the majority of his associates regarding State sovereignty, survivals of which in the new instrument his opponents regarded as the redeeming features.* Henry, to whom it was Virginia’s life-and-death struggle, hurled at his antagonists arrows forged and feathered by himself. His speeches are so long that only the most important phrases can here be given, but they should be read by all who wish to understand the arguments against the adoption.† Said he:

“Mr. Chairman: The public mind, as well as my own, is extremely uneasy at the proposed change of government. Give me leave to form one of the number of those who wish to be thoroughly acquainted with the reasons of this perilous and uneasy situation, and why we are brought hither to decide on this great national question. I consider myself as the servant of the people of this commonwealth, as a sentinel over their rights, liberty, and happiness. I represent their feelings when I say that they are exceedingly uneasy, being brought from that state of full security, which

* J. Q. Adams, *Life of James Madison*, pp. 46-48.

† In volume iii. of Elliot’s *Debates* some of Henry’s speeches fill 8, 10, 16, 21, and 40 pages respectively, while in the aggregate his speeches cover nearly one quarter of the volume — a book of 663 pages. See also Tyler, *Life of Patrick Henry*, p. 286. Regarding Henry’s attitude see Curtis, *Constitutional History*, vol. i., p. 663 *et seq.*

* Conway, *Edmund Randolph*, p. 107.

† Mr. Wirt gives a summing up of Henry’s objections to the new Constitution, in his *Life of Patrick Henry*, pp. 299-306. See also Tyler, *Life of Patrick Henry*, p. 287 *et seq.*; Henry, *Life of Patrick Henry*, vol. ii., chaps. xxxvi-xxxvii.

they enjoy, to the present delusive appearance of things. Before the meeting of the late Federal convention at Philadelphia, a general peace and a universal tranquility prevailed in this country, and the minds of our citizens were at perfect repose; but since that period, they are exceedingly uneasy and disquieted. When I wished for an appointment to this convention, my mind was extremely agitated for the situation of public affairs. I conceive the republic to be in extreme danger. If our situation be thus uneasy, whence has arisen this fearful jeopardy? It arises from this fatal system; it arises from a proposal that goes to the utter annihilation of the most solemn engagements of the states into a confederacy, to the eventual exclusion of four states. It goes to the annihilation of those solemn treaties we have formed with foreign nations. The present circumstances of France, the good offices rendered us by that kingdom, require our most faithful and most punctual adherence to our treaty with her. We are in alliance with the Spaniards, the Dutch, the Prussians; those treaties bound us as thirteen states, confederated together. Yet here is a proposal to sever that confederacy. Is it possible that we shall abandon all our treaties and national engagements? And for what? I expected to have heard the reasons of an event so unexpected to my mind, and many others. Was our civil polity or public justice endangered or sapped? Was the real existence of the country threatened, or was this preceded by a mournful progression of events? This proposal of altering federal government is of a most alarming nature: make the best of this new government—say it is composed of everything but inspiration—you ought to be extremely cautious, watchful, jealous of your liberty; for, instead of securing your rights, you may lose them forever. If a wrong step be now made, the republic may be lost forever. If this new government will not come up to the expectation of the people, and they should be disappointed, their liberty will be lost, and tyranny must and will arise. I repeat it again, and I beg gentlemen to consider, that a wrong step, made now, will plunge us into misery, and our republic will be lost. It will be necessary for this Convention to have a faithful historical detail of the facts that preceded the session of the Federal Convention, and the reasons that actuated its members in proposing an entire alteration of government and to demonstrate the dangers that awaited us. If they were of such awful magnitude as to warrant a proposal so extremely perilous as this, I must assert that this Convention has an absolute right to a thorough dis-

covery of every circumstance relative to this great event. And here I would make this inquiry of those worthy characters who composed a part of the late Federal Convention. I am sure they were fully impressed with the necessity of forming a great consolidated government, instead of a confederation. That this is a consolidated government is demonstrably clear; and the danger of such a government is, to my mind, very striking. I have the highest veneration for those gentlemen; but, sir, give me leave to demand, what right had they to say, 'We, the People?' My political curiosity, exclusive of my anxious solicitude for the public welfare, leads me to ask, who authorized them to speak the language of, 'We, the People,' instead of We, the States? States are the characteristics and the soul of a confederation. If the states be not the agents of this compact, it must be one great consolidated national government of the people of all the states.* I have the highest respect for those gentlemen who formed the Convention; and were some of them not here, I would express some testimonial of esteem for them. America had on a former occasion put the utmost confidence in them; a confidence which was well placed; and I am sure, sir, I would give up any thing to them. I would cheerfully confide in them as my representatives. But, sir, on this great occasion, I would demand the cause of their conduct. Even from that illustrious man, who saved us by his valor, I would have a reason for his conduct: that liberty which he has given us by his valor tells me to ask this reason, and sure I am, were he here, he would give us that reason: but there are other gentlemen here, who can give us this information. The people gave them no power to use their name. That they exceeded their power is perfectly clear. It is not mere curiosity that actuates me; I wish to hear the real, actual, existing danger which should lead us to take those steps so dangerous in my conception. Disorders have arisen in other parts of America, but here, sir, no dangers, no insurrection or tumult, has happened; every thing has been calm and tranquil. But notwithstanding this, we are wandering on the great ocean of human affairs. I see no land-mark to guide us. We are running we know not whither. Difference in opinion has gone to a degree of inflammatory resentment, in different parts of the country, which has been occasioned by this perilous innovation. The Federal Convention ought to have amended the old system; for this purpose they

* On this question, see Story, *Commentaries on the Constitution*, vol. i., p. 350 et seq.

were solely delegated; the object of their mission extended to no other consideration. You must therefore forgive the solicitation of one unworthy member, to know what danger could have arisen under the present Confederation, and what are the causes of this proposal to change our government." *

The next day, Mr. Henry further remarked:

"This Constitution is said to have beautiful features; but when I come to examine these features, sir, they appear to me horribly frightful. Among other deformities, it has an awful squinting; it squints towards monarchy; and does not this raise indignation in the breast of every true American? Your president may easily become king. Your senate is so imperfectly constructed, that your dearest rights may be sacrificed by what may be a small minority; and a very small minority may continue forever unchangeably this government, although horribly defective. Where are your checks in this government? Your strong-holds will be in the hands of your enemies. It is on a supposition that your American governors shall be honest, that all the good qualities of this government are founded; but its defective and imperfect construction, puts it in their power to perpetrate the worst of mischiefs, should they be bad men; and, sir, would not all the world, from the eastern to the western hemisphere, blame our distracted folly in resting our rights upon the contingency of our rulers being good or bad? Show me that age and country where the rights and liberties of the people were placed on the sole chance of their rulers being good men, without a consequent loss of liberty? I say that the loss of that dearest privilege has ever followed with absolute certainty, every such mad attempt.

"If your American chief be a man of ambition and abilities, how easy will it be for him to render himself absolute! The army is in his hands, and, if he be a man of address, it will be attached to him; and it will be the subject of long meditation with him to seize the first auspicious moment to accomplish his design; and, sir, will the American spirit solely relieve you when this happens? I would rather infinitely, and I am sure most of this Convention are of the same opinion, have

a king, lords, and commons, than a government, so replete with such insupportable evils. If we make a king, we may prescribe the rules by which he shall rule his people, and interpose such checks as shall prevent him from infringing them: but the president in the field, at the head of his army, can prescribe the terms on which he shall reign master, so far that it will puzzle any American ever to get his neck from under the galling yoke. I cannot with patience think of this idea. If ever he violates the laws, one of two things will happen: he will come at the head of his army to carry every thing before him; or, he will give bail, or do what Mr. Chief Justice will order him. if he be guilty, will not the recollection of his crimes teach him to make one bold push for the American throne? Will not the immense difference between being master of every thing, and being ignominiously tried and punished, powerfully excite him to make this bold push? But, sir, where is the existing force to punish him? Can he not, at the head of his army, beat down every opposition? Away with your president; we shall have a king: the army will salute him monarch; your militia will leave you, and assist in making him king, and fight against you: and what have you to oppose this force? What will then become of you and your rights? Will not absolute despotism ensue? *

On June 9, in the course of a long speech, Henry said:

"We are told that this government, collectively taken, is without an example — that it is national in this part, and federal in that part, etc. We may be amused, if we please, by a treatise of political anatomy. In the brain it is national: the stamina are federal — some limbs are federal, others national. The senators are voted for by the State legislatures; so far it is federal. Individuals choose the members of the first branch; here it is national. It is federal in conferring general powers; but national in retaining them. It is not to be supported by the States — the pockets of individuals are to be searched for its maintenance. What signifies it to me, that you have the most curious anatomical description of it in its creation? To all the common purposes of legislation it is a great consolidation of government. You are not to have the right to legislate in any but trivial cases: you are not to touch private contracts: you are not to have

* See *The South in the Building of the Nation*, vol. ix., pp. 175-178; Henry, *Life of Patrick Henry*, vol. iii., pp. 431-434.

* Henry, *Life of Patrick Henry*, vol. iii., pp. 451-452.

the right of having arms in your own defence: you cannot be trusted with dealing out justice between man and man. What shall the States have to do? Take care of the poor, repair and make highways, erect bridges, and so on and so on. Abolish the State legislatures at once. What purposes should they be continued for? Our legislature will indeed be a ludicrous spectacle — 180 men marching in solemn, farcical procession, exhibiting a mournful proof of the lost liberty of their country, without the power of restoring it. But, sir, we have the consolation, that it is a mixed government; that is, it may work sorely on your neck, but you will have some comfort by saying, that it was a federal government in its origin.”*

On June 24, when the question of ratification came up, Henry again spoke on the subject as follows:

“Have gentlemen no respect to the actual dispositions of the people in the adopting States? Look at Pennsylvania and Massachusetts. These two great States have raised as great objections to that government as we do. There was a majority of only nineteen in Massachusetts. We are told that only ten thousand were represented in Pennsylvania, although seventy thousand had a right to be represented. Is not this a serious thing? Is it not worth while to turn your eyes for a moment from subsequent amendments, to the situation of your country? Can you have a lasting union in these circumstances? It will be in vain to expect it. But if you agree to previous amendments, you shall have union, firm and solid. I cannot conclude without saying, that I shall have nothing to do with it, if subsequent amendments be determined upon. Oppressions will be carried on as radically by the majority when adjustments and accommodations will be held up. I say, I conceive it my duty, if this government is adopted before it is amended, to go home. I shall act as I think my duty requires.—Every other gentleman will do the same. Previous amendments, in my opinion, are necessary to procure, peace and tranquility. I fear, if they be not agreed to, every movement and operation of government will cease, and how long that baneful thing, civil discord, will stay from this country, God only knows. When men are free from restraint, how long will you suspend

their fury? The interval between this and bloodshed, is but a moment. The licentious and wicked of the community, will seize with avidity every thing you hold. In this unhappy situation, what is to be done? It surpasses my stock of wisdom. If you will, in the language of freemen, stipulate that there are rights which no man under heaven can take from you, you shall have me going along with you, and not otherwise.”*

Answering Henry's arguments, Randolph made a very forcible speech, in which he said:

“I have labored for the continuance of the Union — the rock of our salvation. I believe, that, as sure as there is a God in Heaven, our safety, our political happiness and existence, depend on the Union of the states; and, that without this Union, the people of this and the other states, will undergo the unspeakable calamities, which discord, faction, turbulence, war, and bloodshed, have produced in other countries. The American spirit ought to be mixed with American pride — pride to see the Union magnificently triumph. Let that glorious pride, which once defied the British thunder, reanimate you again. Let it not be recorded of Americans, that, after having performed the most gallant exploits, after having overcome the most astonishing difficulties, and after having gained the admiration of the world by their incomparable valor and policy, they lost their acquired reputation, their national consequence and happiness, by their own indiscretion. Let no future historian inform posterity, that

* Henry, *Life of Patrick Henry*, vol. iii., pp. 578–579. Henry, finding himself likely to be overpowered, said: “If I shall be in the minority I shall have those painful sensations which arise from a conviction of being overpowered in a good cause. Yet I will be a peaceable citizen. My head, my hand, and my heart, shall be at liberty to retrieve the loss of liberty, and remove the defects of that system in a constitutional way. I wish not to go to violence, but will wait, with hopes that the spirit which predominated in the Revolution is not yet gone, nor the cause of those who are attached to the Revolution yet lost. I shall therefore patiently wait in expectation of seeing that government changed, so as to be compatible with the safety, liberty, and happiness of the people.” — Elliot, *Debates* vol. iii., p. 652; Tyler, *Life of Patrick Henry*, p. 296; Madison's *Works* (Congress ed.), vol. i., p. 402.

* Henry, *Life of Patrick Henry*, vol. iii., pp. 497–498.

they wanted wisdom and virtue, to concur in any regular, efficient government. Should any writer, doomed to so disagreeable a task, feel the indignation of an honest historian, he would reprehend and recriminate our folly, with equal severity and justice. Catch the present moment, seize it with avidity and eagerness, for it may be lost never to be regained. If the Union be now lost, I fear it will remain so forever. I believe gentlemen are sincere in their opposition, and actuated by pure motives: but when I maturely weigh the advantages of the Union, and dreadful consequences of its dissolution; when I see safety on my right, and destruction on my left; when I behold respectability and happiness acquired by the one, but annihilated by the other; I cannot hesitate to decide in favor of the former. I hope my weakness, from speaking so long, will apologize for my leaving this subject in so mutilated a condition. If a further explanation be desired, I shall take the liberty to enter into it more fully another time."

Now finding himself sorely pressed, Henry alluded to Jefferson as being opposed to the Constitution. Writing to a friend in Virginia, February 7, 1787,* Jefferson had said:

"I wish with all my soul, that the nine first conventions may accept the new Constitution, because it will secure to us the good it contains, which I think great and important. But I equally wish that the four latest conventions, whichever they be, may refuse to accede to it till a Declaration of Rights be annexed. This would probably command the offer of such a declaration, and thus give to the whole fabric, perhaps, as much perfection as any one of that kind ever had. By a Declaration of Rights, I mean one which shall stipulate freedom of religion, freedom of the press, freedom of commerce against monopolies, trial by juries in all cases, no suspensions of the *habeas corpus*, no standing armies. These are fetters against doing evil which no honest government should decline. There is another strong feature in the new constitution which I as strongly dislike. That is, the perpetual re-eligibility of the president. Of this I expect no amendment at present, because I do not see that anybody has

objected to it on your side of the water. But it will be of cruel distress to our country, even in your day and mine. The importance to France and England to have our government in the hands of a friend or foe will occasion their interference by money and even by arms. Our president will be of as much more consequence to them than a king of Poland. We must take care, however, that neither this nor any other objection to the new form produces a schism in our Union. That would be an incurable evil, because near friends falling out never reunite cordially; whereas, all of us going together, we shall be sure to cure the evils of our new Constitution before they do great harm."*

Henry construed this letter as advising Virginia to reject the Constitution, saying that "this illustrious citizen advises you to reject this Constitution till it be amended. * * * Let us follow the sage advice of this common friend of our happiness."† But this use of Jefferson's opinion was not strictly justifiable, for, while he undoubtedly wished his opinions to be known, he did not actually advise the rejection of the Constitution and on May 27, 1788, he wrote to Colonel Carrington as follows:

"I learn with great pleasure the progress of the new Constitution. Indeed, I have presumed it would gain on the public mind, as I confess it has on my own. At first, tho' I saw that the great mass & ground work was good, I disliked many appendages. Reflection and discussion have cleared off most of these. You have satisfied me as to the query I had put to you about the right of direct taxation. My first wish was that nine states would adopt it in order to insure what was good in it and that the others might, by holding off, produce the necessary amendments. But the plan of Massachusetts is far preferable, and will I hope be followed by those who are yet to decide * * *."‡

* Jefferson's *Works*, vol. ii., p. 355.

† Elliot, *Debates*, vol. iii., p. 152.

‡ Ford's ed. of Jefferson's *Writings*, vol. v., pp. 19-20.

* For other letters expressing the same sentiments, see Ford's ed. of Jefferson's *Writings*, vol. v., pp. 2-3, 4, 5, 7-8, 11-12, 41-42, 46, 76-78.

On the 14th of June the "discussion at large" had been stopped and the text of the Constitution was taken up clause by clause, the debate under this rule lasting until the 24th.* Wythe, who was chairman of the committee of the whole, then left his seat, came down to the body of the house and moved that the Constitution be ratified, at the same time recommending that Congress make certain amendments. Henry now moved that a bill of rights and some twenty amendments, which he had prepared, be submitted instead of a ratification, and that these be referred to the other States for consideration.† Madison was convinced that the fate of the instrument which he had been so helpful in forming depended on the question then to be decided. He was too well acquainted with the difficulties in the general Convention to believe that the various States could ever unite on the various amendments which would be proposed. Madison said:

"Nothing has excited more admiration in the world than the manner in which free governments have been established in America. For it was the first instance from the creation of the world to the American Revolution, that free inhabitants have been seen deliberating on a form of government, and selecting such of their citizens as possessed their confidence, to determine upon, and give effect to it. But why has this excited so much wonder and applause? Because it is of so much magnitude, and because it is liable to be frustrated by so many accidents. If it has excited so much wonder, that the United States have

in the middle of war and confusion, formed free systems of government, how much more astonishment and admiration will be excited, should they be able, peaceably, freely, and satisfactorily, to establish one general government, when there is such a diversity of opinions and interests, when not cemented or stimulated by any common danger? How vast must be the difficulty of concentrating in one government the interests, and conciliating the opinions of so many different heterogeneous bodies? How have the confederacies of ancient and modern times been formed? As far as ancient history describes the former to us, they were brought about by the wisdom of some eminent sage. How was the imperfect union of the Swiss Cantons formed? By danger. How was the confederacy of the United Netherlands formed? By the same. They were surrounded by dangers. By these and one influential character, they were stimulated to unite. How was the Germanic system formed? By danger, in some degree, but principally by the overruling influence of individuals. When we consider this government, we ought to make great allowances. We must calculate the impossibility that every state should be gratified in its wishes, and much less that every individual should receive this gratification. It has never been denied by the friends of the paper on the table, that it has its defects. But they do not think that it contains any real danger. They conceive that they will in all probability be removed when experience will show it to be necessary. I beg that gentlemen deliberating on this subject, would consider the alternative. Either nine states will have ratified it or they will not. If nine states will adopt it, can it be reasonably presumed or required, that nine states having freely and fully considered the subject, and come to an affirmative decision, will upon the demand of a single state, agree that they acted wrong, and could not see its defects—tread back the steps which they have taken, and come forward and reduce it to uncertainty, whether a general system shall be adopted or not? Virginia has always heretofore spoken the language of respect to the other states, and she has always been attended to. Will it be that language, to call on a majority of the states to acknowledge that they have done wrong? Is it the language of confidence to say, that we do not believe that amendments for the preservation of the common liberty and general interest of the states, will be consented to by them? This is neither the language of confidence nor respect. Virginia, when she speaks respectfully, will be as much attended to as she has hitherto been, when

* For a resumé, see Curtis, *Constitutional History*, vol. i., p. 666 *et seq.*

† McMaster, *United States*, vol. i., p. 491; Curtis, *Constitutional History*, vol. i., p. 681.

speaking this language. It is a most awful thing that depends on our decision—no less than whether the thirteen states shall unite freely, peaceably, and unanimously, for the security of their common happiness and liberty, or whether every thing is to be put in confusion and disorder! Are we to embark in this dangerous enterprise, uniting various opinions to contrary interests, with the vain hopes of coming to an amicable concurrence? “It is worthy of our consideration, that those who prepared the paper on the table, found *difficulties not to be described, in its formation*: mutual deference and concession were absolutely necessary. Had they been inflexibly tenacious of their individual opinions, they would never have concurred. Under what circumstances was it formed? When no party was formed, or particular proposition made, and men’s minds were calm and dispassionate. Yet, under these circumstances, it was difficult, extremely difficult, to agree to any general system.

“Suppose eight states only should ratify it, and Virginia should propose certain alterations, as the previous condition of her accession. If they should be disposed to accede to her proposition, which is the most favorable conclusion, the difficulty attending it would be immense. Every state, which has decided it, must take up the subject again. They must not only have the mortification of acknowledging that they have done wrong, but the difficulty of having a reconsideration of it among the people, and appointing new conventions to deliberate upon it. They must attend to all the amendments, which may be dictated by as great a diversity of political opinions, as there are local attachments. When brought together in one assembly they must go through, and accede to every one of the amendments. The gentlemen who, within this house, have thought proper to propose previous amendments, have brought no less than forty amendments—a bill of rights which contains twenty amendments, and twenty other alterations, some of which are improper and inadmissible. Will not every state think herself equally entitled to propose as many amendments? And suppose them to be contradictory. I leave it to this Convention, whether it be probable that they can agree, or agree to any thing but the plan on the table; or whether greater difficulties will not be encountered, than were this Constitution in the progress of the formation of this Constitution.” *

* On this and the three succeeding days Madison spoke thirty-five times. See Hunt, *Life of Madison*, p. 150 *et seq.*

After two days of wrangling, the proposition made by Henry was defeated by a majority of 8, the vote standing 88 to 80. On the question to ratify the majority was 10, the vote standing 89 to 79,* and thus, as Hunt says: “The greatest orator of his time, the master who could sway Virginia audiences as no other man could, who had become habituated to success with them and had on this occasion exerted his marvelous powers, as he had never exerted them before, had suffered defeat from a thin-voiced feeble scholar who never aroused the enthusiasm of an audience in his life. Henry never forgot nor forgave it * * *.”† After a few preliminary remarks, the Convention added: “With these impressions, with a solemn appeal to the Searcher of hearts, for the purity of our intentions, and under the conviction that whatsoever imperfections may exist in the Constitution, ought rather to be examined in the mode prescribed therein, than to bring the Union to danger, by a delay with a hope of obtaining amendments previous to the ratification: we, the delegates, do assent to ratify the Constitution.”‡

At the same time the Convention agreed upon a bill of rights consisting of twenty articles and the same

* Madison to Washington, *Madison’s Works*, (Congress ed.), vol. i., p. 401; also p. 404; Elliot, *Debates*, vol. iii., p. 654; Baneroft, vol. vi., p. 436; *The South in the Building of the Nation*, vol. i., pp. 103–104.

† Hunt, *Life of Madison*, p. 155.

‡ Henry, *Life of Patrick Henry*, vol. iii., p. 592.

number of amendments to the Constitution. The declaration of rights was as follows:

"1st. That there are certain natural rights of which men when they form a social compact cannot deprive or divest their posterity, among which are the enjoyment of life, and liberty, with the means of acquiring, possessing, and protecting property, and pursuing and obtaining happiness and safety.

"2d. That all power is naturally vested in, and consequently derived from the people; that magistrates therefore are their trustees and agents, and at all times amenable to them.

"3d. That government ought to be instituted for the common benefit, protection, and security of the people; and that the doctrine of non-resistance against arbitrary power and oppression is absurd, slavish, and destructive to the good and happiness of mankind.

"4th. That no man or set of men are entitled to exclusive or separate public emoluments or privileges from the community, but in consideration of public services; which not being descendible, neither ought the offices of magistrate, legislator or judge, or any other public office to be hereditary.

"5th. That the legislative, executive, and judiciary powers of government should be separate and distinct, and that the members of the two first may be restrained from oppression by feeling and participating the public burthens, they should at fixed periods be reduced to a private station, return into the mass of the people, and the vacancies be supplied by certain and regular elections; in which all or any part of the former members should be eligible or ineligible, as the rules of the constitution of government, and the laws shall direct.

"6th. That elections of representatives in the legislature ought to be free and frequent, and all men having sufficient evidence of permanent common interest with, and attachment to the community, ought to have the right of suffrage; and no aid, charge, tax, or fee can be set, rated, or levied upon the people without their own consent, or that of their representatives, so elected, nor can they be bound by any law to which they have not in like manner assented for the public good.

"7th. That all power of suspending laws, or the execution of laws by any authority without the consent of the representatives of the people in the legislature, is injurious to their rights, and ought not to be exercised.

"8th. That in all criminal and capital prosecutions, a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, to call for evidence and be allowed counsel in his favor, and to a fair and speedy trial by an impartial jury of his vicinage, without whose unanimous consent he cannot be found guilty (except in the government of the land and naval forces), nor can he be compelled to give evidence against himself.

"9th. That no freeman ought to be taken, imprisoned, or disseized of his freehold, liberties, privileges, or franchises or outlawed, or exiled, or in any manner destroyed or deprived of his life, liberty, or property, but by the law of the land.

"10th. That every freeman restrained of his liberty is entitled to a remedy to enquire into the lawfulness thereof, and to remove the same, if unlawful, and that such remedy ought not to be denied nor delayed.

"11th. That in controversies respecting property, and in suits between man and man, the ancient trial by jury is one of the greatest securities to the rights of the people, and ought to remain sacred and inviolable.

"12th. That every freeman ought to find a certain remedy by recourse to the laws for all injuries and wrongs he may receive in his person, property, or character. He ought to obtain right and justice freely without sale, completely and without denial, promptly and without delay, and that all establishments or regulations, contravening these rights, are oppressive and unjust.

"13th. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

"14th. That every freeman has a right to be secure from all unreasonable searches and seizures of his person, his papers, and property; all warrants therefore to search suspected places, or seize any freeman, his papers, or property, without information upon oath (or affirmation of a person religiously scrupulous of taking an oath) of legal and sufficient cause, are grievous and oppressive, and all general warrants to search suspected places, or to apprehend any suspected person without specially naming or describing the place or person, are dangerous, and ought not to be granted.

"15th. That the people have a right peaceably to assemble together to consult for the common good, or to instruct their representatives; and that every freeman has a right to petition or apply to the legislature for redress of grievances.

"16th. That the people have a right to freedom of speech, and of writing and publishing

their sentiments; that the freedom of the press is one of the greatest bulwarks of liberty, and ought not to be violated.

"17th. That the people have a right to keep and bear arms; that a well regulated militia composed of the body of the people trained to arms, is the proper, natural, and safe defence of a free state. That standing armies in time of peace are dangerous to liberty, and therefore ought to be avoided, as far as the circumstances and protection of the community will admit; and that in all cases, the military should be under strict subordination to and governed by the civil power.

"18th. That no soldier in time of peace ought to be quartered in any house without the consent of the owner, and in time of war in such manner only as the laws direct.

"19th. That any person religiously scrupulous of bearing arms ought to be exempted upon payment of an equivalent to employ another to bear arms in his stead.

"20th. That religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence, and therefore all men have an equal, natural, and unalienable right to the free exercise of religion according to the dictates of conscience, and that no particular religious sect or society ought to be favored or established by law in preference to others."*

The suggested amendments to the Constitution were:

"1st. That each state in the union shall respectively retain every power, jurisdiction, and right, which is not by this constitution delegated to the congress of the United States, or to the departments of the federal government.

"2d. That there shall be one representative for every thirty thousand, according to the enumeration or census mentioned in the constitution, until the whole number of representatives amounts to two hundred; after which that number shall be continued or increased as congress shall direct, upon the principles fixed in the constitution, by apportioning the representatives of each state to some greater number of people from time to time, as population increases.

"3d. When the congress shall lay direct taxes or excises, they shall immediately inform the executive power of each state of the quota of such state, according to the census herein directed, which is proposed to be thereby raised; and if the

legislature of any state shall pass a law which shall be effectual for raising such quota at the time required by congress, the taxes and excises laid by congress, shall not be collected in such state.

"4th. That the members of the senate and house of representatives shall be ineligible to, and incapable of holding any civil office under the authority of the United States, during the time for which they shall be respectively elected.

"5th. That the journals of the proceedings of the senate and the house of representatives shall be published at least once in every year, except such parts thereof relating to treaties, alliances, or military operations, as in their judgment require secrecy.

"6th. That a regular statement and account of the receipts and expenditures of all public money, shall be published at least once in every year.

"7th. That no commercial treaty shall be ratified without the concurrence of two-thirds of the whole number of the members of the senate; and no treaty, ceding, contracting, restraining, or suspending the territorial rights or claims of the United States, or any of them, or their, or any of their rights or claims to fishing in the American seas, or navigating the American rivers, shall be made, but in cases of the most urgent and extreme necessity, nor shall any such treaty be ratified without the concurrence of three-fourths of the whole number of the members of both houses respectively.

"8th. That no navigation law or law regulating commerce shall be passed without the consent of two-thirds of the members present, in both houses.

"9th. That no standing army or regular troops shall be raised, or kept up in time of peace, without the consent of two-thirds of the members present, in both houses.

"10th. That no soldier shall be enlisted for any longer term than four years, except in time of war, and then for no longer term than the continuance of the war.

"11th. That each state respectively shall have the power to provide for organizing, arming, disciplining its own militia, whensoever congress shall omit or neglect to provide for the same. That the militia shall not be subject to martial law, except when in actual service in time of war, invasion, or rebellion, and when not in the actual service of the United States, shall be subject only to such fines, penalties, and punishments as shall be directed or inflicted by the laws of its own state.

"12th. That the exclusive power of legislation

* These are given in Henry, *Life of Patrick Henry*, vol. iii., pp. 593-596.

given to congress over the federal town and its adjacent district, and other places, purchased or to be purchased by congress of any of the states, shall extend only to such regulations as respect the police and good government thereof.

"13th. That no person shall be capable of being President of the United States for more than eight years in any term of sixteen years.

"14th. That the judicial power of the United States shall be vested in one supreme court, and in such courts of admiralty as congress may from time to time ordain and establish in any of the different states. The judicial power shall extend to all cases in law and equity arising under treaties made, or which shall be made, under the authority of the United States; to all cases affecting ambassadors, other foreign ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies between two or more states, and between parties claiming lands under the grants of different states. In all cases affecting ambassadors, other foreign ministers and consuls, and those in which a state shall be a party, the supreme court shall have original jurisdiction; in all other cases before mentioned, the supreme court shall have appellate jurisdiction as to matters of law only; except in cases of equity, and of admiralty and maritime jurisdiction, both as to law and fact, with such exceptions and under such regulations as the congress shall make. But the judicial power of the United States shall extend to no case where the cause of action shall have originated before the ratification of this constitution; except in disputes between states about their territory; disputes between persons claiming lands under the grants of different states, and suits for debts due to the United States.

"15th. That in criminal prosecutions, no man shall be restrained in the exercise of the usual and accustomed right of challenging or excepting to the jury.

"16th. That congress shall not alter, modify, or interfere in the times, places, or manner of holding elections for senators and representatives, or either of them, except when the legislature of any state shall neglect, refuse or be disabled by invasion or rebellion to prescribe the same.

"17th. That those clauses which declare that congress shall not exercise certain powers, be not interpreted in any manner whatsoever, to extend the powers of congress; but that they be construed either as making exceptions to the specified powers where this shall be the case, or otherwise, as inserted merely for greater caution.

"18th. That the laws ascertaining the com-

pensation of senators and representatives for their services, be postponed in their operation until after the election of representatives immediately succeeding the passing thereof; that excepted, which shall first be passed on the subject.

"19th. That some tribunal other than the senate be provided for trying impeachments of senators.

"20th. That the salary of a judge shall not be increased or diminished during his continuance in office otherwise than by general regulations of salary, which may take place on a revision of the subject at stated periods of not less than seven years, to commence from the time such salaries shall be first ascertained by Congress." *

The Convention also enjoined upon their representatives in Congress "to exert all their influence and use all reasonable and legal methods to obtain a ratification of the foregoing alterations and provisions in the manner provided by the fifth article of the said Constitution,† and in all congressional laws to be passed in the meantime to conform to the spirit of these amendments as far as the said Constitution will admit."‡ This news caused great rejoicing at Philadelphia where a large parade was held in celebration of the event.|| At Providence, R. I., the news of the ratification of New Hampshire caused great joy and a celebration was fixed for July 4, but the Anti-Federalists attempted to break up the celebra-

* See Henry, *Life of Patrick Henry*, vol. iii., pp. 596-599.

† See Pitkin, *Political and Civil History of the United States*, vol. ii., pp. 280-281; Tyler, *Life of Patrick Henry*, chap. xix.

‡ On the Virginia Convention, see also Grigsby, *The Virginia Convention of 1788*, in *Virginia Historical Collections*, vol. ix.; Bancroft, vol. vi., pp. 371-380, 421-437; Elliot, *Debates*, vol. iii.

|| Schouler, *United States*, vol. i., pp. 75-76.

tion and did succeed in putting a damper on the festivities. On July 5, however, when the news arrived that Virginia had ratified, a parade was held and rejoicings were unrestrained. At Albany, N. Y., a riot occurred, the Anti-Federalists attacking a procession with stones, bricks, and pieces of iron, but the Federalists in the procession soon put the attacking party to rout.*

In connection with the Virginia Convention an event occurred which is supposed by some to have been a piece of foul play. When the Virginia Legislature assembled after the framing of the Constitution, a law was passed on the subject, and Governor Randolph was directed to transmit a copy of it to each of the State governors, to be laid before the various legislatures for the purpose of obtaining an interchange of opinions. These copies were sent to the governors December 27, 1787, and all were received in due time except the one sent to New York, which was not received by Governor Clinton until March 7, 1788. This delay prevented its being acted upon by the New York Legislature in which a majority sympathized with the violent opposition of Governor Clinton to the Constitution. Undoubtedly New York would have responded to the offer of coöperation, had the letter from Randolph arrived in time, which would have greatly strengthened those who dissented from the Constitution in Vir-

ginia. Because of its late arrival, the letter from Randolph had no influence on the New York Legislature, while, on the other hand, as the Virginia Assembly had adjourned, Clinton was unable to make any communication to it.

The Virginia convention to ratify or reject the Constitution was to meet June 2; that of the New York, June 17. Clinton, however, did not answer Randolph's letter until May 8, 1788, when he wrote as follows:

"Yonr Excellency's letter of the 27th of December, although it appears to have been committed to the post-office at Richmond, did not come to my hands until the 7th of March. 'The Act inclosed' was immediately communicated to the Legislature, but it was after they had passed their resolutions for calling a Convention, and so near the close of their sessions, that no order was taken in consequence of it.

"The system of government proposed by the Federal Convention is an object of such vast importance to the happiness of America, that it appears to me essential that the people of the different States cultivate and cherish the most friendly sentiments towards each other, especially during their deliberations on that interesting subject.

"The Convention of this State are to meet at Poughkeepsie, on the 17th of June, to take the proposed system into consideration, and I am persuaded they will, with great cordiality, hold a communication with any sister State on the important subject, and especially with one so respectable in point of importance, ability, and patriotism as Virginia. I think I may venture to assure your Excellency that the people of this State are disposed to keep up that friendly intercourse, and preserve that unanimity respecting any great change of Government, which appears to be that of the Act of your legislature, and which it is the duty of every good man to promote and cherish, and I have no doubt but that our Convention will possess the same sentiments.

"As the session of your Convention will take place before that of this State, they will, I presume, commence the measures for holding such communications as shall be deemed necessary.

* McMaster, *United States*, vol. i., pp. 492-496.

"I cannot refrain expressing regret, that a similar conduct has not been observed by the States who have already had the proposed system under consideration. Friendly communications on the subject, and temperate discussions, would, it is to be presumed, have had a most happy tendency in accommodating it much more to the sentiments and wishes of the people of America, than is likely to be the case in the form it is offered by the General Convention, and acceded to by some of the States. Should it be adopted by small majorities in the large States, we cannot reasonably hope it will operate so as to answer the salutary purposes designed; for I presume it may be laid down as a certain truth, that no government can be exercised over this country in its present condition, that is not supported by the affections and confidence of the people in general.

"As I have no direction from the legislature on the subject of your communications, your Excellency will be pleased to consider this letter as expression of my own sentiments, but I have at the same time a well-founded confidence, that a majority of the people of the State over which I have the honor to preside will concur in them."

Clinton timed his letter so that it would reach the Virginia convention during its session. It was duly received by Randolph and laid before the executive council, but of its receipt the convention knew nothing until the day after the Constitution had been ratified, when, of course, the letter could have no effect. On June 2 the convention assembled and on the 25th the final vote was taken. An extra session of the Legislature had been called for June 23, and when it had convened Governor Randolph sent Clinton's letter to it, saying that he had laid the letter before the council, and as they had considered it of a public nature, it was now forwarded for the consideration of the Assembly. This was two days before the final vote was taken on ratifica-

tion, but because of the fact that the majority of the legislators were attending the sessions of the convention there was no quorum in the Assembly on June 24, the message of the governor being laid over for consideration until the next day. But when the next day arrived there was no quorum, for the orators of the convention had once again denuded the Legislature of the majority of its members, in consequence of which the views of New York remained unheard and the Constitution was carried. On the 26th George Mason repaired to the Assembly, of which he was a member, and for the first time heard of Governor Clinton's letter. He thereupon drew up some resolutions demanding to know why Clinton's letter had not been laid before the convention at their first meeting; but these resolutions were never offered and, as it was too late to have any effect, Mason dropped the matter.

The mystery does not seem ever to have been uncovered. Randolph was in a very peculiar position. Clinton's letter was both official and unofficial; public and private; and speaking for New York, though without the authority of the Legislature. Randolph was a governor and responsible to the Legislature which had elected him, but in his private capacity he was also a member of the convention. Therefore, if he had laid before the convention the communication received in his capacity as governor, he might have been impeached

for violating the rights of the Legislature, whereas, on the other hand, if he had laid the letter before the convention as a private communication, it might have been resented as an interference of an outsider with the supreme council of state. When Randolph laid the letter before his council, the matter was thoroughly considered and it was determined not to introduce the letter into the convention, since it was only as a private citizen that Randolph could use the letter in that body. As the letter had not been written to him in the capacity as a private citizen, but as governor, he and the council concluded that it belonged to the Legislature, to which body it had been sent on the earliest day of its legal meeting, which was two days before the ratification. It was therefore due to the neglect of Clinton's allies in Virginia that the matter was not brought up in the Convention.*

The New York Convention met on June 17 and immediately engaged in the work at hand.† Hamilton, Jay, and Robert R. Livingston were the foremost advocates of the adoption, while Governor Clinton, Robert Yates, John Lansing, James Duane, and others strenuously opposed such a course, and there is little doubt that the popular feeling was against adoption. New York was not the most im-

portant of the States at this time, either in wealth or population, but her geographical position had great weight, capable as she was of dividing New England and the Middle and Southern States. Party feeling had always run much higher in New York than in the majority of the other States, and at the present time was extremely bitter. There was a compact, strong, and well laid opposition to the adoption, and this faction made a concerted attempt to write down the adoption of the Constitution by a series of essays. Hamilton, however, accepted the challenge and under the name of "Publius," with the aid of Madison and Jay, wrote those essays on the Constitution now so famous as *The Federalist*.* In January, 1788, the governor laid the official communications of Congress before the Legislature and on February 1, after a severe struggle, resolutions ordering a State convention to be elected were passed by a majority of three in the Senate and two in the House. When the election was held (in April) the Anti-Federalists elected two-thirds of the members of the convention and from the election it appeared that about four-sevenths of the people of the State were unfriendly to the Constitution. It was planned by the Anti-Federal leaders to meet at the appointed time and to adjourn for a year that they might see how the Constitution operated in such States as adopted it, after which time New

* See Conway, *Edmund Randolph*, pp. 108-116.

† For details, see Baneroft, vol. vi., pp. 454-460; Pellew, *John Jay*, p. 257 *et seq.*; Curtis, *Constitutional History*, vol. i., pp. 674-680, 684 *et seq.*

* Lodge, *Alexander Hamilton*, p. 65 *et seq.*

York would act in accordance with the feelings of her people. The opponents of the Constitution, however, were much disappointed by the results of the conventions in Virginia and New Hampshire. Ten States had now adopted the Constitution and it was absolutely certain to go into operation, no matter what the vote in New York might be. Hamilton earnestly pleaded for adoption, and finally, on July 26, a compromise was reached, so that when the official vote was taken a majority of three was obtained in favor of ratification, the vote standing 30 to 27.* At the same time 32 amendments to the Constitution were suggested. These amendments were more radical than had been suggested by any other State. In addition to the proposals of Massachusetts, New York suggested that no persons, except natural born citizens, or such as were citizens prior to July 4, 1776, or held commissions during the war, and had since July 4, 1776, become citizens of one of the States, should be eligible to become President, Vice-President, or a member of Congress. Other suggestions were that no standing army be maintained during times of peace without the assent of two-thirds of both Houses of Congress, and that without the same

majority Congress should have no power to declare war; that the right of *habeas corpus* should not be suspended for more than six months; that no capitation tax should ever be laid; that no person should be eligible as a Senator for more than six years, in any term of twelve years; that State legislatures should have power to recall their Senators; that no member of Congress should be allowed to accept any other office under the authority of the United States; that no person should be eligible for the Presidency for the third time; that Congress should not constitute any tribunals or inferior courts with any other than appellate jurisdiction, except in cases of admiralty and maritime jurisdiction, and for the trial of piracies and felonies committed on the high seas; that persons aggrieved by any judgment of the supreme court in any case in which that court had original jurisdiction, should be entitled to have the case reviewed by a board of seven commissioners to be appointed by the President and Senate; that the judicial power should not extend to controversies respecting land, except those relating to claims of territory or jurisdiction between States, or between individuals of different States, under grants by the various States; that the militia should not be called upon to serve outside the limits of the State for a longer term than six weeks, unless the consent of the legislature be obtained; that Congress should not im-

* Elliot, *Debates*, vol. ii.; *Magazine of American History*, vol. ii., p. 389. See also Sumner, *Life of Alexander Hamilton*, pp. 136-139; Lodge, *Alexander Hamilton*, p. 71 *et seq.*; Lamb, *City of New York*, vol. ii., pp. 320-321; Knox's letter in Sparks, *Correspondence of the Revolution*, vol. iv., pp. 230-232; McMaster, *United States*, vol. i., pp. 496-499.

pose any excise upon any article, except ardent spirits, grown, produced, or manufactured in the United States.

In order to secure the adoption of these amendments, the New York convention addressed a circular letter to the governors of all the other States asking that another Federal Convention be called,* observing regarding the new system that "several articles in it appear so exceptional to the majority of us, that nothing but the fullest confidence of obtaining a revision of them by a general convention, and in invincible reluctance to separating from our sister states, have prevailed upon a sufficient number of us, to ratify it, without stipulating for previous amendments." The Virginia legislature, where Henry and his friends were still potent, at once seized upon this invitation,† and this encouraged the Anti-Federalists to show their strength once again. But the general response of the States was disappointing to the Anti-Federal leaders; neither Pennsylvania, Massachusetts, nor Connecticut would countenance a second convention and the Anti-Federalists now lay prostrate. The people had made an irrevocable decision and would abide by it; nor would they consent to be drawn into a movement which promised nothing but further strife and probably a worse result.‡

* McMaster, vol. i., p. 500.

† For details of the struggle in Virginia, see Tyler, *Life of Patrick Henry*, chap. xix.; Henry, *Life of Patrick Henry*, vol. ii., chap. xxxviii.

‡ Schouler, *United States*, vol. i., p. 79. Writ-

North Carolina held its convention at the same time as that of New York, and, after a long debate, assent to the Constitution without previous amendments was refused.* But in the latter part of the following year, after Washington had been President for some time, the State, on November 21, 1789, ratified the Constitution with a declaration of rights and 26 proposed amendments.† Rhode Island did not ratify until May 29, 1790.‡ Story says:

"Thus was achieved another, and still more glorious, triumph, in the cause of liberty, even than that, by which we were separated from the parent country. It was not achieved, however, without great difficulties and sacrifices of opinion.

ing to Jefferson, August 10, 1788, Madison said: "The great danger in the present crisis is, that if another Convention should be soon assembled it would terminate in discord, or in alterations of the federal system, which would throw back *essential* powers into the State Legislatures. The delay of a few years will assuage the jealousies which have been artificially created by designing men, and will at the same time point out the faults which really call for amendment. At present, the public mind is neither sufficiently cool nor sufficiently informed for so delicate an operation." —Madison's *Works* (Congress ed.), vol. i., p. 407. See also pp. 410, 411, 418, 419, 420, 433 *et seq.*, 445, 447.

* Bancroft, vol. vi., pp. 460-462; McMaster, vol. i., p. 501.

† *The South in the Building of the Nation*, vol. i., pp. 471-472.

‡ For the convenience of reference, we subjoin the dates of the ratification of the Constitution by the thirteen original States:—Delaware, December 7, 1787; Pennsylvania, December 12, 1787; New Jersey, December 18, 1787; Georgia, January 2, 1788; Connecticut, January 9, 1788; Massachusetts, February 6, 1788; Maryland, April 28, 1788; South Carolina, May 23, 1788; New Hampshire, June 21, 1788; Virginia, June 26, 1788; New York, July 26, 1788; North Carolina, November 21, 1789; Rhode Island, May 29, 1790.

It required all the wisdom, the patriotism, and the genius of our best statesmen, to overcome the objections, which, from various causes, were arrayed against it. The history of those times is full of melancholy instruction, at once to admonish us of the dangers, through which we have passed, and of the necessity of incessant vigilance, to guard and preserve, what has been thus hardly earned. The Constitution was adopted unanimously in New Jersey, Delaware, and Georgia. It was supported by large majorities in Connecticut, Pennsylvania, Maryland, and South Carolina. In the remaining states, it was carried by small majorities; and especially in Massachusetts, New York, and Virginia, by little more than a mere preponderating vote. What a humiliating lesson is this, after all our sufferings and sacrifices, and after our long and sad experience of the evils of disunited councils, and of the pernicious influence of state jealousies, and local interests! It teaches us, how slowly even adversity brings the mind to a due sense of what political wisdom requires. It teaches us, how liberty itself may be lost, when men are found ready to hazard its permanent blessings, rather than submit to the wholesome restraints, which its permanent security demands.

"To those great men, who thus framed the Constitution, and secured the adoption of it, we owe a debt of gratitude, which can scarcely be repaid. It was not then, as it is now, looked upon, from the blessings, which, under the guidance of Divine Providence, it has bestowed, with general favor and affection. On the contrary, many of those pure and disinterested patriots, who stood forth, the firm advocates of its principles, did so at the expense of their existing popularity. They felt, that they had a higher duty to perform, than to flatter the prejudices of the people, or to subserve selfish, or sectional, or local interests. Many of them went to their graves, without the soothing consolation, that their services and their sacrifices were duly appreciated. They scorned every attempt to rise to power and influence by the common arts of demagogues; and they were content to trust their characters, and their conduct, to the deliberate judgment of posterity.

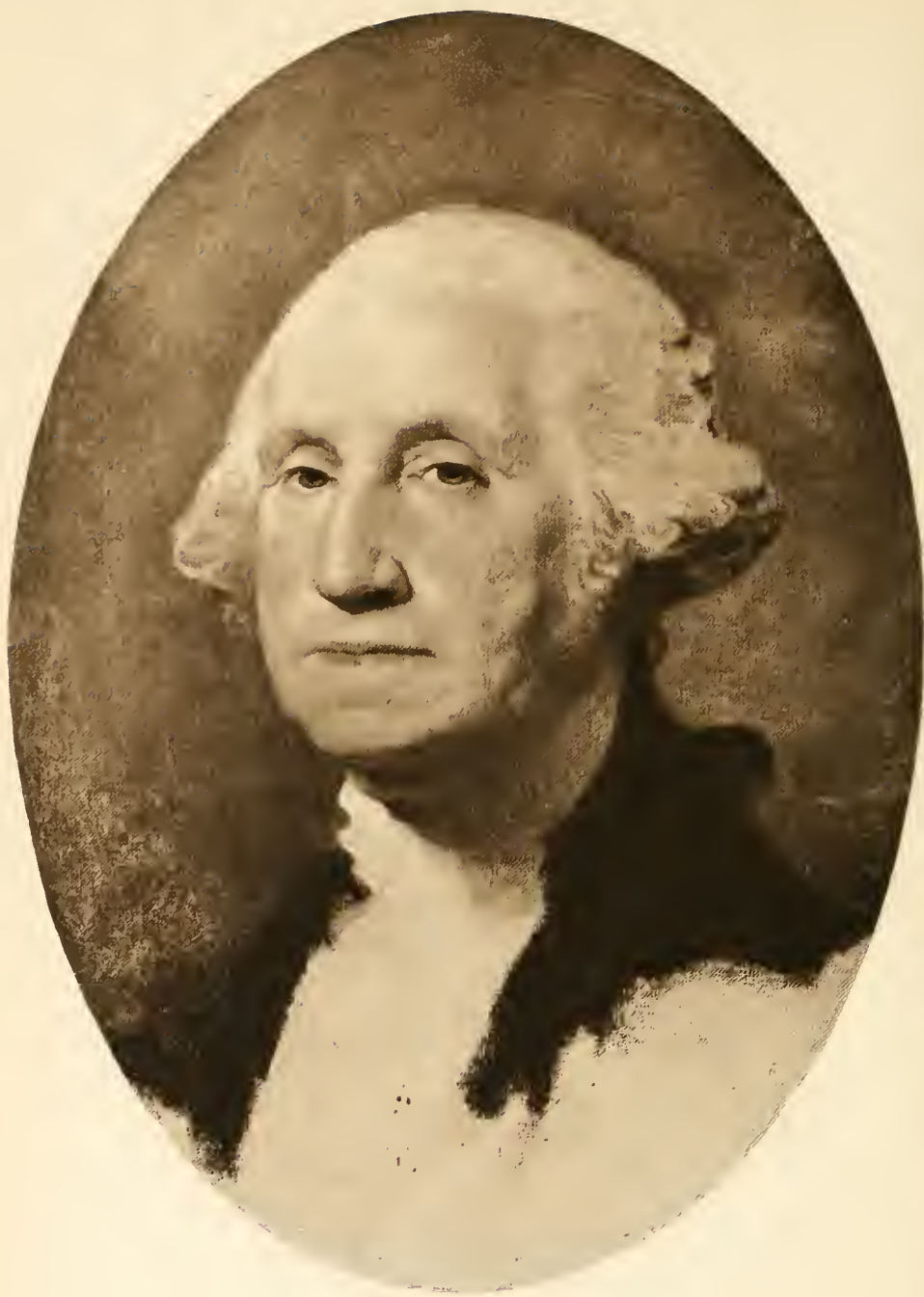
"If, upon a close survey of their labors, as developed in the actual structure of the Constitution, we shall have reason to admire their wisdom and forecast, to observe their profound love of liberty, and to trace their deep sense of the value of political responsibility, and their anxiety above all things, to give perpetuity, as well as energy to the republican institutions of their country; then, indeed, will our gratitude kindle into a holier reverence, and their memories will

be cherished among those of the noblest benefactors of mankind." *

Meanwhile the ratification of New Hampshire being the ninth in order the Constitution became the law of the land. The New Hampshire ratification was laid before Congress July 2, 1788, whereupon it was ordered "that the ratifications of the Constitution of the United States, transmitted to Congress, be referred to a committee, to examine the same, and report an act to Congress, for putting the said Constitution into operation, in pursuance of the resolutions of the late Federal Convention." On July 14 this committee reported such an act, but because of a division of opinion as to the place where Congress would meet, it did not pass without dispute. Finally, however, on September 13, it was "*Resolved*, That the first Wednesday in January next be the day for appointing electors in the several states, which, before the said day, shall have ratified the said Constitution; that the first Wednesday in February next be the day for the electors to assemble in their respective states, and vote for a president; and that the first Wednesday in March next be the time, and the present seat of Congress [New York] the place, for commencing proceedings under the said Constitution." †

* Story, *Exposition of the Constitution*, pp. 35-36. See also Story, *Commentaries on the Constitution*, vol. i., p. 199.

† See Madison's letter of September 14, 1788, to Washington, in *Madison's Works* (Congress ed.), vol. i., p. 416.



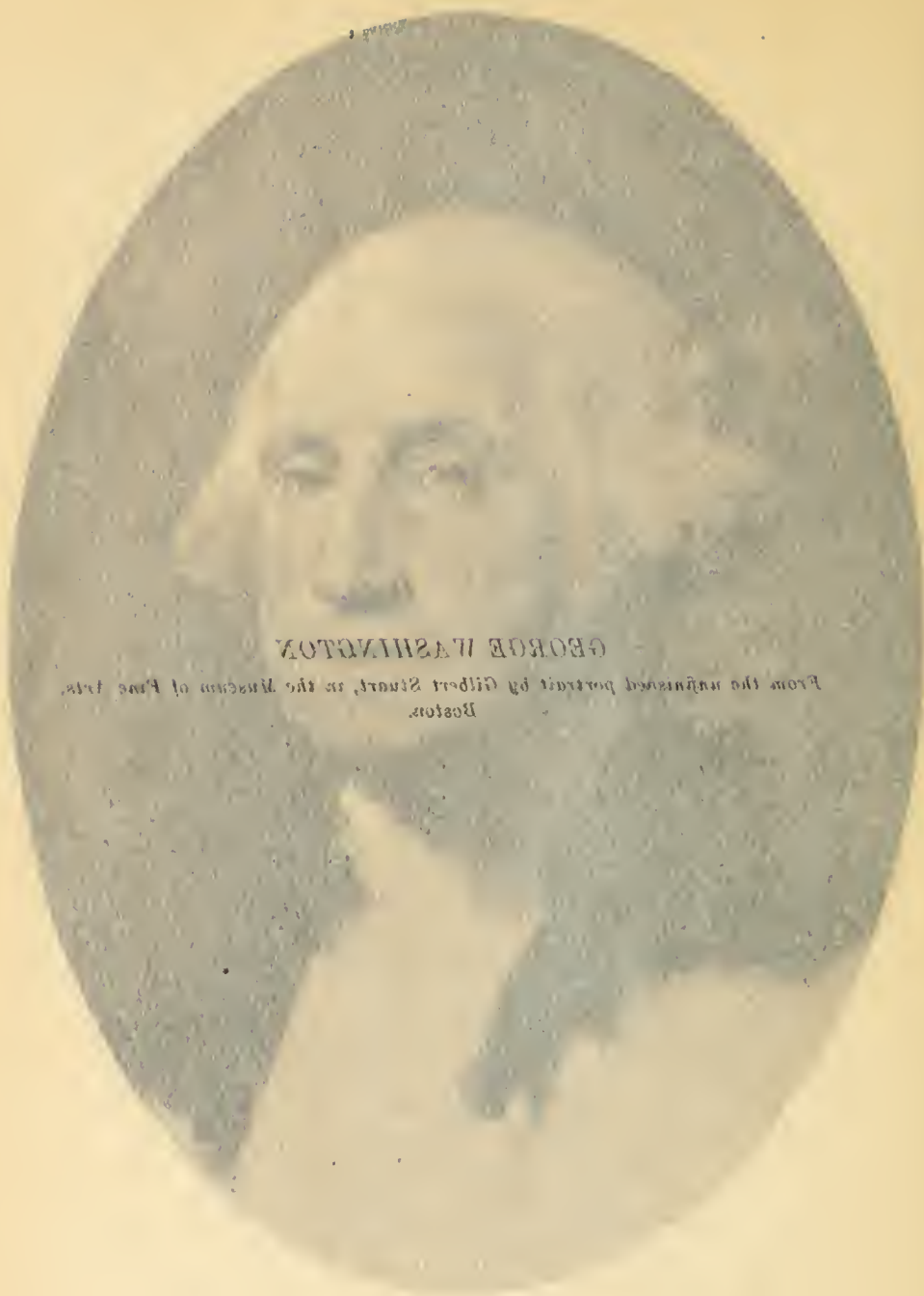
LECTURES
GROWTH AND DEVELOPMENT
UNITED STATES

LIEUTENANT EDWIN WILEY, M.A. PH.D.
GEORGE WASHINGTON

*From the unfinished portrait by Gilbert Stuart, in the Museum of Fine Arts,
Boston.*

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GEORGE WASHINGTON

From the engraved portrait by Gilbert Stuart, in the Museum of Fine Arts,
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SERIES SEVEN

LECTURES TWENTY-TWO TO TWENTY-FIVE

*Social and Economic Conditions During the Revolutionary Era,
1764—1789*

- 22. Land Systems, Wealth, Real and Personal Property Values
- 23. Industries, Agriculture, Labor
- 24. Commerce, Transportation, Banking and Currency
- 25. Education, Religion, Literature, Art

THE UNITED STATES

CHAPTER I.

1764-1789.

LAND SYSTEMS: WEALTH: REAL AND PERSONAL PROPERTY VALUES.

Systems of land ownerships in various colonies — Grants in the West — Importance of the public domain — The crown lands — The question of the disposition of western lands — Territory embraced in cessions by States — The ordinance of 1784 — The ordinance of 1787 — Public lands a source of revenue — Pecuniary condition of emigrants — Sources of wealth — Wealth in the various colonies — Total value of real and personal property in 1770 — Material development slow during war — Confiscation of Loyalist estates — Estates of the rich — Amounts of specie in colonies — Value and distribution of real estate after Revolution — Assessed value of property by States in 1788.

Land Systems.

AS fixed in the several colonies in the first years of the colonial period, so the principles of land tenure remained practically unchanged until after the Revolution. New England developed more and more strongly along the line of township divisions, village communities and individual ownership in fee simple. In New York the manorial system still prevailed, although it had been gradually shorn of some of its pronounced fendal characteristics, the lord proprietors having become little more than the owners of large estates divided into lease-hold farms. The granting of extensive tracts of wilderness in the western part of the State to royal favorites or in recognition of military service had attained to considerable proportions and was developing a condition des-

tined, in the next century, to be the cause of grave disturbance in the commonwealth. In the South the colonists held to their big plantations and their successes in the cultivation of tobacco, rice and indigo had operated to convince them more than ever of the economic value of that system in their section of the country. Maryland held to the manor system and to grants under quit-rent until the Revolution. In 1767 there was a record in that colony of the sale of 227 manors, embracing 100,000 acres.

In Pennsylvania a mixed system of land ownership prevailed throughout the colonial period. Those who purchased land held it immediately of the proprietor and not from the king. Land was divided into commonage, proprietary manors and private estates. Various conditions and concessions attached to the sale and

bound the purchasers or grantees. Quit-rents were annually collected from the common and manorial lands and from lots in the city of Philadelphia, which ranged in value from a peppercorn, a red rose or an Indian arrow to several shillings per hundred acres. From the beginning, however, the payment of these quit-rents was often refused and the agents of the proprietor were powerless to enforce collections. By the middle of the Eighteenth century the tide of emigration had pushed the frontier far to the westward, thousands of acres being taken up by squatters whom it was impossible to dislodge. To encourage frontier settlement, many free grants of land and some fraudulent entries were made by officials and speculators. In 1765, in order to overcome these evils, the proprietors made new regulations governing their land office, but land speculation continued despite all their efforts. In November, 1779, the estates of the proprietors were confiscated by the commonwealth.*

But while all these matters of land tenure in the individual colonies were gradually working to satisfactory solutions, the seed was planted, in this generation, of another land question more momentous than any that had preceded it. The history of the public domain of the future United

States began in 1763, although there were perhaps few if any who then recognized that fact or realized the infinite results of big and strong nationality that were inherent in it.

By the treaty of Paris in 1763 Great Britain secured undisputed possession of a great territory on the American continent west and north of its colonies, which up to that time had been claimed and to some extent occupied by the French. This territory was divided into four provinces, Quebec, East Florida, West Florida and Granada (the latter comprising islands of the West Indies). By royal proclamation of 1763 all the western lands not included in these provinces were set apart from the colonial territories and designated as crown lands. From time to time settlers invaded these lands, attracted by reports of their fertility and natural resources, and royal grants were made to companies who wished to exploit the territory, before as well as after the French had been dislodged, in 1748, 1749, 1757, 1766, 1769 and 1775. In all these transactions the companies petitioned directly to the British crown and not to any colonial government. The ownership of these lands, whether crown or colonial, was one of the most serious questions which demanded solution from the republic in its earliest years.

When the independence of the colonies was recognized by the treaty of 1783, the territory of the new nation extended from the Atlantic to the Mis-

* William R. Shepherd, *Land System of Provincial Pennsylvania*, in *Annual Report of the American Historical Association* for 1895, p. 117.

Mississippi and from the Great Lakes to the Gulf of Mexico. This domain comprised about 830,000 square miles. Outside of the defined boundaries of the several colonies, there were extensive tracts west of the Alleghany Mountains. This extra-territorial region was claimed — principally under the terms of the early royal grants or charters — by several of the Northern and by the three southernmost colonies. Its area was nearly one-half of the total area of the new United States. The northern claimants were Massachusetts, Connecticut, and New York who asserted ownership to territory northwest of the Ohio River. Virginia also laid claim to part of this territory. The two Carolinas and Georgia claimed extensions of their territories, south of the Ohio River.

The question of the disposition of these western lands became a momentous problem as soon as the confederation of the States had been accomplished. The seven claimant States treated the royal proclamation of 1763 creating crown lands as of no binding force, but in opposition it was argued by the other six States that the United States had, under the treaty of 1783, succeeded to the rights of England to the crown lands, as a result of the efforts of the confederacy as a whole. It was also insistently argued that the possession of such vast territories by a few States would give those commonwealths a dangerous predominance over the others in

wealth and ultimate political power. From 1776, when Virginia, in her constitution, strongly asserted her claims to this land and the Maryland convention as strongly entered her protest and appealed to the Continental Congress, until the final adjustments in 1780 and thereafter, the controversy was constant and often serious. Finally, complying with a resolution of Congress in 1780 urging that this vast domain should be given to the Federal government, New York first made the cession of her part of the territory involved, in 1781. The other States followed her example; Virginia in 1784 and 1788; Massachusetts in 1785; Connecticut in 1786 and 1800; South Carolina in 1787; North Carolina in 1790; Georgia in 1802. The amount of territory, which thus became one of the great foundation stones, of real and enduring nationality for the United States, was as follows:

States.	Square Miles.	Acres.
Massachusetts	54,000	34,560,000
Connecticut	40,000	25,600,000
New York and Massachusetts..	315	202,187
Virginia	265,562	169,959,680
South Carolina.....	4,000	3,136,000
North Carolina.....	45,600	29,184,000
Georgia	88,578	56,689,920
Total	498,955	319,331,787

The question of the disposition of this great public domain was taken up by the Continental Congress even before it had been acquired in October, 1780. The resolution which was then adopted contained the declaration that the territory as soon as it should come into possession of the Federal government should be “dis-

posed of for the common benefit of the United States and be settled and formed into distinct republican states." In this resolution was the corner-stone of the territorial system of the future nation, the beginning of American public land legislation. During the ensuing seven years the subject, in one form or another, was continually under consideration by Congress. Several plans were proposed and considered for the laying out of new States, but no conclusive action was taken until April, 1784. Then a plan reported by a committee of which Jefferson was the chairman was adopted, which remained the law for the government of the territory for the ensuing three years. This plan carried in detail methods for surveying and dividing the territory, for making it into Territories and States and for its government. With some modifications, this plan was further approved by a committee and adopted by Congress May 20, 1785.

All this legislation was but the forerunner of the famous ordinance of 1787 which, based upon what had preceded, provided a complete and final plan for the holding, settling and governing of the territory. Praise of this ordinance as an act of high statesmanship and remarkable foresight has been general on the part of public men and historical students. Daniel Webster said of it: "I doubt whether one single law of any law-giver, ancient or modern, has produced effects of more distinct, marked

and lasting character."* Chief Justice Salmon P. Chase praised the ordinance in these words: "Never probably in the history of the world did a measure of legislation so accurately fulfill and yet so mightily exceed the anticipations of the legislators."† And others have spoken in similar terms.

The ordinance was particularly remarkable in its complete destruction of the doctrine of tenure, so far as the United States are concerned. Since that time the individual title derived from the government has involved the entire transfer of the ownership of the soil. Said the public land commissioner of 1870, in summarizing the character and the influence of this ordinance: "Under its care and provisions the central and western states and territories of the Union, and the states in the territory south of the river Ohio have grown from weak and straggling settlements to mighty commonwealths and organizations containing more than 25,000,000 people. The ordinance began with a wilderness. Its principles embraced in existing laws, now govern in area and population the domain of an empire."‡

Various results, profound and lasting, have been the outcome of the ac-

* Daniel Webster, *Works*, vol. iii., p. 263 (Boston, 1851).

† S. P. Chase (ed.), *The Statutes of Ohio and of the Northwestern Territory*, Introduction, vol. i.

‡ *The Public Domain*, p. 159 (Washington, 1884).

quisition of this public domain and the administration of it and have vitally influenced the political, social and economic conditions of the country. For a hundred years the public lands were used as bounties to veteran soldiers and sailors. At the outset they were an important source of public revenue and formed a basis for national finance. In diplomacy and in war they have been of the highest importance as in the matter of the territorial acquisitions from France, Spain, Mexico, and Russia. They have been the means of effecting internal improvements, of promoting the cause of education, of influencing problems of transportation, of developing the mineral resources of the country, of stimulating agriculture, manufacturing industries and commerce, and of encouraging an immigration that in the closing years of the Nineteenth century had come to be one of the most important economic problems of the hour.*

* W. B. Weedon, *Economic and Social History of New England, 1620-1789*, vol. ii., (2 vols., Boston, 1899); J. A. Doyle, *The English Colonies in America*; Thomas Donaldson, *The Public Domain* (Washington, 1894); W. R. Shepherd, *The Land System of Provincial Pennsylvania*, in *Annual Report of the American Historical Association for 1895* (Washington, 1896); J. B. McMaster, *A History of the People of the United States* (7 vols., New York, 1884-1910); P. A. Bruce, *Economic History of Virginia in the Seventeenth Century* (2 vols., New York, 1896); Peter Force, *American Archives*, series iv., vol. i. (9 vols., Washington, 1837-1848); Justin Winsor (ed.), *Territorial Acquisitions and Divisions*, in *Narrative and Critical History of America*, vol. vii. (8 vols., Boston and New York, 1889); B. A. Hinsdale, *The Old Northwest* (New York, 1888);

Wealth.

Few of the pioneers of the New World brought much wealth with them. Broadly speaking they came with empty hands and empty pockets. In fact, many went into debt in order to cross the Atlantic, landing not only without wealth or resources, but even with their bodies in pawn. Mostly, they were of the middle class at home, with moderate means. Or they were very poor; servants, debtors, redemptioners, released convicts, adventurers. They came, not bringing fortunes, but to make fortunes.

Exceptions there were to this sweeping generalization, and exceptions of a notable character. When the settlement of America had been fairly begun, it was encouraged and supported by men of wealth in England, merchants and others who hoped financially to profit from their ventures. Some of these came over personally to look after their investments or sent over others of their class. Some of the leaders in the early migrations from England were men of substantial standing in material possessions, or even of wealth. Such, for example, were John Winthrop, Thomas Dudley, Richard Saltonstall and others of Massachusetts, who were men of high social standing and rich as riches went in those days.

S. P. Chase (ed.), *The Statutes of Ohio and of the Northwestern Territory* (3 vols., Cincinnati, 1833-1835); annual reports and publications of the United States General Land Office; papers in *Annals of the American Academy of Political and Social Science*, vol. xxxiii. (Philadelphia, 1909).

Ferdinando Gorges spent large sums from his private fortune in exploring and settling northern New England. Theophilus Eaton who founded New Haven in 1638 was a rich merchant of London. Lion Gardiner, who settled first in Connecticut and afterward on Long Island, was a man of independent fortune. Almost without exception, the first Dutchmen on Manhattan Island were poor men, principally employees of the West India Company. Before the middle of the Seventeenth century others, with more means, came out from Holland, and some of the enterprising first-comers had gone into trading for themselves and were beginning to make fortunes. William Penn was a man of wealth when he came to found the colony that was named after him. His father left him a large fortune, part of which was a claim of £16,000 against King Charles, who paid the debt with the royal charter of Pennsylvania. Cecil Calvert, the second Lord Baltimore, was also rich and used his wealth lavishly in the upbuilding of his colony of Maryland. He expended over £20,000 in the beginning, and his father, George Calvert, with several friends put £40,000 into the enterprise. The London branch of the Virginia Company, which undertook the settlement of Virginia, was rich and influential. Its stockholders sent much money to their colony and some of the Virginia founders were men of wealth and became richer in a few years in their new home.

In all the colonies there was much wealth before the end of the Seventeenth century. In New England shipbuilding, lumbering, fisheries, and commerce with the West Indies and England had enriched many. In New York and the other Middle colonies, trade—considerably with the Indians—and agriculture were the main sources of wealth. In the South, the raising of tobacco and naval stores made this the richest section of the country. There was more concentrated wealth in New York and Virginia than in any other colony. Most men were but in fairly comfortable circumstances. Millionaires were as yet undreamed of. The wealthiest men in the country were worth what would be equivalent to \$100,000 to \$250,000 in the Twentieth century.

A hundred years of life worked great changes in the colonies. Politically and commercially they were still attached to the mother country when the Eighteenth century opened, but socially and economically they had grown into an independent life of their own. Their wealth was now entirely of their own making and, except in the matter of a foreign market for their products, it was not drawn from the England which their ancestors generations before had called home. In New England there were few very rich families, principally in the seaports in the middle of the century. In New York there was much wealth and its possession conferred

social importance. The great Dutch landholders had become the wealthiest, but there were many rich merchants in the cities, while the farmers were generally well off. In New Jersey, where the population was almost entirely farming, there was little individual or collective wealth. In Pennsylvania, principally in and about Philadelphia, there was much wealth; money had been made in trade, in agriculture and in land ownership. Banking interests in Philadelphia assumed importance early in the century. It was a Philadelphia banker, Robert Morris, who, with the help of a few loyal friends, practically financed the Revolution by using his private credit. In Virginia the leading families had acquired such wealth that they lived in princely magnificence and had much for public purposes. In 1775 the colony voted £40,000 for military purposes. The chief, though not only, source of wealth was tobacco and that crop brought to the Virginians from \$3,000,000 to \$5,000,000 yearly. As practically all was sold to foreign markets, that amount was added to the wealth of the colony from that single source, either in money or fine furniture, rugs, tapestries, silver ware, clothing and other things with which they supplied themselves from abroad for their luxurious living.*

Real and Personal Property Values.

During the later colonial period there were big increases in the amount and value of property held by individuals. Population had grown from about 275,000 in 1700 to about 2,000,000 in 1765. By industrious development of the resources of the country, by expansion of territorial area, by bringing always more and more acres of virgin land to cultivation and other use, by commerce with the European world, this little nation had succeeded in acquiring a substantial amount of real and personal property. In 1770 when the population, as estimated, was about 2,205,000, the total real and personal property was well toward \$750,000,000 or \$300 to \$350 per capita. Property figures of this period are necessarily largely guess work. No census was ever taken and valuations for assessments were infrequent, inaccurate and not comprehensive. But after the Revolution the real estate of the new Republic was estimated to be worth nearly \$620,000,000 and, even after allowing for the

* W. B. Weedon, *Economic and Social History of New England* (2 vols., Boston, 1879); J. A. Doyle, *The English Colonies in America* (5 vols., New York, 1889-1907); P. A. Bruce, *Economic History of Virginia in the Seventeenth Century*

(2 vols., New York, 1896); George P. Fisher, *The Colonial Era in America*, vol. i., *American History Series* (New York, 1892); Robert Beverly, *History of Virginia* (Richmond, 1855); Charles C. Coffin, *Old Times in the Colonies* (New York, 1880); George W. Schuyler, *Colonial New York* (2 vols., New York, 1885); T. A. Glenn, *Some Colonial Mansions, and Those who Lived in Them* (2 vols., Philadelphia, 1889-1900); *The Winthrop Papers, in Massachusetts Historical Society Collections*; Mrs. Schuyler Van Rensselaer, *History of the City of New York in the Seventeenth Century* (2 vols., 1909); Moncure D. Conway, *The Barons of the Potomac and Rappahanock* (Grolier Club, New York, 1893).

losses during the war, it was probably nearly that in 1790. Personal property would run about a third more. All things considered the per capita was large and was evidence of a condition of general industry and prosperity.

Real estate was principally in farming properties, small farms in the North, extensive manors in New York, and Maryland, and big plantations in Virginia and elsewhere in the South. Residential properties in the few cities constituted a relatively small proportion of the real estate. Personal property was made up entirely of live-stock, implements of agriculture, household furnishings and utensils, clothing, jewelry, money, ships, and products of the land. Banks were not known; stocks and bonds of railroads and other industrials had not arrived; manufacturing as means of investment and profit was not to come for half a century.

During the Revolution there was little progress in material development. The field of military operations was extensive; not a single colony escaped. Property losses, outside a few localities where the military forces were most in action, were not large. But the people everywhere were so involved in the struggle for liberty that other affairs were considerably neglected. The local animosities between the patriots and the Loyalists were of such virulent character that they broke up many of the

ordinary pursuits of the people; in New York and other colonies even the administration of law was suspended to a grave extent on account of the divided allegiance of the people, some to the king and others to the patriot cause. There was left little record of the status and accumulation of property in that period. A considerable number of men were enlisted in the Continental army; as many as 157,000 were called for by Congress in 1776. The number actually in the field at any one time was less than that, but a large proportion of the entire population was in the fighting ranks, and thus withdrawn from gainful occupations. This was the principal reason why property did not increase in value between 1770 and 1783; but to this must be added, as another prime cause of the stagnation, the almost entire suspension of foreign commerce.

A majority of the wealthiest people in all the colonies were of the official class, or merchants whose interests were more or less allied to or dependent upon the government. Naturally, most of these remained loyal to the crown when the colonies revolted. When the patriot cause was successful, the Loyalists fled to Canada and to England, leaving their estates to be confiscated by the victors. But they carried some personal property with them. It has been estimated that the Loyalists of New York carried away with them nearly

a million in hard money.* Not less than that amount was taken from the other colonies. Some of the estates left behind were valued at nearly £100,000; that of James de Lancey, for example, was worth £93,639. England undertook to compensate these loyal supporters for their losses and in the final adjudication in 1788, 5,072 individuals presented claims amounting to £8,026,045.† These figures give at least a suggestion of the value of property held by part of the wealthiest class of the colonists of that time.

Estates of the rich in Pennsylvania and in Virginia were valued at from £10,000 upward. An estate of £50,000 was exceptional. The Watts house in New York, a fine city mansion, was worth £2,000 sterling. Mary Philipse inherited from her father, Frederick Philipse, an estate worth £20,000. Annual incomes of substantial citizens ranged from £500 to £5,000.

Authorities have differed regarding the amount of specie in the colonies in the Revolutionary and post-Revolutionary periods. One worker — Blodgett — calculated that in 1774 there was about \$4,000,000, and Lord Sheffield's figures for 1775 were about \$9,500,000.‡

Coming to the close of the Revo-

lution, we have somewhat more definite figures as to amount and value of property, particularly of real estate. Then there were in the United States 163,746,688 acres of land valued at \$479,293,203, and dwelling houses valued at \$140,683,984, making a total for real estate of \$619,977,247. There were 276,695 dwelling houses and the number of slaves was 393,219. The acreage was divided among the States as follows: New Hampshire, 3,749,061; Massachusetts, 7,831,628; Rhode Island, 565,844; Connecticut, 2,649,149; Vermont, 4,918,722; New York, 16,414,510; New Jersey, 2,788,282; Pennsylvania, 11,959,838; Delaware, 1,074,105; Maryland, 5,444,272; Virginia, 40,458,644; North Carolina, 20,956,467; South Carolina, 9,772,589; Georgia, 13,534,154; Kentucky, 17,674,634; Tennessee, 3,951,357.* It will be observed that by far the greatest proportion of land owned was in the seven Southern States, over 111,000,000 acres, as compared with less than 51,000,000 in the nine States of the North.

The assessed valuation of property — including real estate and slaves in the several States in 1788 was as follows: New Hampshire, \$23,175,046; Massachusetts, \$83,992,469; Rhode Island, \$11,066,358; Connecticut, \$48,313,434; Vermont, \$16,723,873; New York, \$100,380,707; Delaware, \$6,234,414; Maryland, \$32,372,291;

* Thomas Jones, *History of New York During the Revolutionary War*, vol. iii., p. 246.

† Lorenzo Sabine, *Biographical Sketches of the Loyalists of the American Revolution*, vol. i., p. 112.

‡ Adam Seybert, *Statistical Annals*, p. 551.

* Timothy Pitkin, *A Statistical View of the Commerce of the United States*, pp. 417-419 (2d ed., 1817).

North Carolina, \$30,842,372; South Carolina, \$17,465,012; Tennessee, \$6,134,108; Virginia, \$71,225,127; New Jersey, \$36,473,890; Pennsylvania, \$102,145,900; Georgia, \$12,061,138; Kentucky, \$21,408,090; total, \$619,977,247. These were the figures taken by Congress as a basis for taxation in 1789.*

* Thomas Jones, *History of New York During the Revolutionary War and of the Leading Events in the other Colonies at that Period* (2 vols., New York, 1879); Lorenzo Sabine, *Biographical Sketches of the Loyalists of the American Revolution* (2 vols., Boston, 1864); George Bancroft, *History of the United States of America* (5 vols.,

New York, 1885); C. C. Coffin, *Old Times in the Colonies* (New York, 1880); Adam Seybert, *Statistical Annals* (Philadelphia, 1818); James Curtis Ballagh (ed.), *Economic History, 1607-1865*, vol. v., in *The South in the Building of the Nation* (12 vols., Richmond, 1909); A. Burnaby, *Travels in America* (London, 1755); John Fiske, *Old Virginia and Her Neighbours* (Boston, 1897); J. A. Doyle, *The English Colonies in America* (New York, 1882); F. J. Chastellux, *Travels in North America* (2 vols., London, 1787); W. B. Weedon, *Economic and Social History of England* (2 vols., Boston, 1890); J. J. Lalor (ed.), *Cyclopedia of Political Science, Political Economy, and of the Political History of the United States* (3 vols., Chicago, 1881); Peter Force, *Tracts Relating to the American Colonies* (4 vols., Washington, 1836-46); T. A. Glenn, *Some Colonial Mansions and Those who Lived in Them* (2 vols., Philadelphia, 1899-1900).

CHAPTER II.

1764-1789.

INDUSTRIES: AGRICULTURE: LABOR.

Increase in population stimulates industries — Effect of English policies on industries — Shipbuilding in New England — Number and tonnage of vessels built — Timber production — Textile industries — Introduction of machinery and the factory system — Various articles manufactured in the colonies — Increase in iron manufactures and textiles after war — Laws passed in England to harass American industry — Congress vested with power to regulate trade — Tariff bill of 1789 stimulates home industries — Northern and Middle States non-agricultural — South supreme in agricultural pursuits — Tobacco leading crop in South — Cotton production — Sugar — Rice — Hemp and flax — England prohibits exportation of machinery — Invention and improvement of machinery in America — Labor largely individual — Spinning-jenny introduced — Cotton factories established — Slave labor in the South — Mechanical inventions revolutionize labor conditions.

Industries.

Before 1770 the colonies had attained to a position where they realized that, were it not for the restrictions which the mother country sought to place upon their commerce and industries, they were even then capable of being economically and industrially an independent people. The enormous natural resources of

the country had been drawn upon only to a moderate degree. Comparatively narrow strips of land along the seaboard had been taken up for cultivation. Acres of timber within sight of the shipping ports still waited for the axe and the saw-mills. Iron mining had barely indicated the wealth that was in store beneath the surface of the earth. Al-

ready shipbuilding was going on at a pace that held out promise that America might soon outrun any other part of the world in this line of industry.

The growth of population — to the approximate number of between 2,000,000 and 3,000,000 — and the increased demand for the things that make for comfort, refinement and luxury in living, had encouraged invention and had stimulated activity in every line of manual labor, in trade, and in commerce. For more than a century England had persistently sought to place burdensome restrictions upon colonial industry and commerce, but this unstatesmanlike policy had an effect wholly contrary to that anticipated by its authors. To a very considerable extent, the infant industries — agriculture, manufacturing and commerce — were thus seriously hampered. The people were forced to purchase in London most of the manufactured articles used in the family or in trade; they were compelled to send their raw material and their agricultural products to England alone, foreign trade being forbidden to them.

But this experience had educated them in a hard school and in a very practical way. They had come to a full realization of the material and irreconcilable divergence in the economic interests of the two countries and of the necessity of achieving independence in these respects,

if they would remain free and prosperous Englishmen. Momentarily industry could not advance under these conditions. In the South, agriculture continued; in New York, trade was not ruined altogether, but in New England and elsewhere, manufactures sank into neglect.

But amid all this stress, the industrial and commercial future of the country was not lost sight of. The people lived, labored, and did business in an atmosphere of discontent and resentment at the impositions of the mother country. Parliamentary laws and ministerial exactions to the contrary notwithstanding, manufacturing went on, crippled to be sure, but not killed; foreign trade was maintained surreptitiously; obnoxious restrictive laws were sturdily ignored; and throughout this pre-Revolutionary period industrial and commercial development went on surely and lustily though slowly. Home industries were maintained in the face of all discouragement when the time came for the inevitable separation from the mother country; it was in these industries that the latent strength was found which made it possible to carry on the struggle to a successful conclusion.

Despite all discouragements, shipbuilding and the commerce which naturally grew therefrom continued to engross the attention of the New Englanders and to a lesser extent the Southern colonists. In 1769 the number of vessels built in the several

colonies and the amount of their tonnage were:

	Vessels	Tonnage
New Hampshire	45	2,452
Massachusetts	137	8,013
Rhode Island	39	1,428
Connecticut	50	1,542
New York	19	955
New Jersey	4	83
Pennsylvania	22	1,469
Maryland	20	1,344
Virginia	27	1,269
North Carolina	12	607
South Carolina	12	789
Georgia	2	50
Total	389	20,001

The tonnage of vessels built in 1770 was 20,610, and in 1771, 24,068. In 1772 the number of vessels built was 182, with an aggregate tonnage of 26,544; of this number 123, which had a tonnage of 18,149, were built in New England. At this time about 50 vessels were built annually and sold to Great Britain. Massachusetts owned nearly one vessel for every one hundred of its inhabitants. Many were also built in that colony on contract and for sale. At the time of the Revolution Philadelphia led the country in naval architecture. Raft-ships, constructed for carrying great loads of timber and designed to be broken up when the voyage was ended, originated in the shipyards of that city. Four of the thirteen frigates ordered by the Congress in 1775 were built there. During the war Maryland was active in fitting out cruisers and South Carolina was her close rival in that work.

Shipbuilding, North and South,

was nearly ruined by the war. For example, the town of Newburyport in Massachusetts, which built 90 vessels in 1772, sent only three off the stocks in 1778. Other shipbuilding places showed a like falling off. The shipyards were kept going only by the building of a few privateers or small frigates for Congress, but these made glorious records for themselves. After the war had ended, there was prompt and substantial recovery of this industry. American shipbuilders again began to demonstrate their superior skill. In 1789 the registered tonnage—American built vessels only—of the United States amounted to 123,893 out of a total tonnage of 201,562; in 1790, the corresponding figures were 346,254 and 478,377, and in the following year the registered tonnage had increased to 669,921.

Timber production was as fruitful a cause of contention between the people and the officers of the crown in 1764 and thereafter as it had been throughout the preceding one hundred years and more. England was still in pressing need of timber for shipbuilding and other purposes, and of naval stores, while the demand for timber from other lands, particularly the West Indies, Portugal and Spain, was an additional incentive to lumbering activity. This was especially true of Massachusetts, New Hampshire, and Maine, where most of this business was carried on.

Textile industries, more than any

other, had suffered from England's adverse legislation. The result was to compel the people to give their attention to home weaving and spinning. Fulling-mills were erected, first in Massachusetts and afterward in other colonies, and later woolen manufactories were set up. Early in the Eighteenth century spinning schools were established in Massachusetts, Connecticut, and New York, and some of these were continued down to the beginning of the Revolution. The Navigation Acts, the Sugar Act of 1764, and the Stamp Act of 1765 led to combined efforts on the part of merchants, manufacturers and the people to encourage home manufacturing and trade. In New York in 1764 a Society for the Promotion of Arts, Agriculture and Economy was organized, and premiums were offered for production of raw materials, linen thread and cloth, leather-shoes, woven stockings, hemp, flax, machinery, and stocking looms. This society and others of like nature continued work for several years, and with good results. England learned, early in 1765, that no less than fourteen new manufactories had lately been established in the colonies, to the loss of Great Britain of nearly half a million sterling. Special efforts were made to stimulate the making of cloths during the Revolution, especially the woolen industry. Before the adoption of the Constitution, manufactories of considerable size were working in several

colonies. Machinery for making cotton and woolen cloth was coming into use, and the great factory system which was to make such radical change in labor condition in the next century was foreshadowed. In 1787 the first cotton-mill was built in Massachusetts. The Arkwright system of spinning was introduced in Rhode Island in the same year. Water-power saw-mills, grist-mills, fulling-mills and paper-mills were still the industrial dependence of the people, but the improvements of Oliver Evans in 1783, and his double-acting high-pressure engine a few years later, gave promise of change. Rumsey in 1785 on the Potomac, and Fitch in 1788 on the Delaware, began steam navigation.

Aside from agriculture, shipbuilding, iron mining and manufacturing, lumbering and the making of woolen and other cloths, the industries of the country at the close of the colonial period were not numerous, extensive, or financially important. For the most part, they were those called for to meet the domestic needs of the people. Saw-mills and grist-mills were everywhere. Brieks had been made in Virginia from 1612 and in Massachusetts from 1629; this industry was well carried on at the time of the Revolution and the production was in slight excess of the home consumption, small quantities being exported. Glass-making, although attempted by the first settlers, was not extensively continued, and no great

success was achieved in it before the Revolution. In 1787 in Albany, New York, in 1787 in Boston, in 1788 in Virginia, and in 1785 in Pennsylvania, glass-works were built and successfully carried on. Brewing in New York and Pennsylvania, wine-making in the South, salt manufacturing, the making of leather goods and other industries, mainly to meet local demands, had also attained to moderate proportions.

Even after independence had been secured, the people of the United States still had industrial England to contend with. Although, following the peace of 1783, there had been a gratifying increase in the bulk of manufactures of the country, the flood of foreign merchandise which began to flow in threatened to engulf the home industries. This was particularly true of iron manufactures and textiles. Numerous acts were passed by the Parliament of Great Britain to prevent the introduction of English machinery and of English workmen into the United States, and otherwise to harass American industry and trade, while protecting its own insular interests. The trade independence of each of the thirteen States was also one of the contributing causes of this injurious competition with foreign imports, which reached proportions out of all comparison with the needs of the country.

With the ratification of the Constitution by the last of the thirteen

States, the general government was vested with power to regulate the trade of the country in such a way as should provide protection to all branches of industry. This achievement gave satisfaction to manufacturers and mechanics, who saw in it encouraging prospects for the future. The failure of Pitt's bill of 1783 for free trade between the United States and the British colonies, and also the failure to secure commercial treaties with France, Holland, Spain, and Portugal, made Congressional action for the protection and the encouragement of home industries an imperative necessity. The situation was met by the passage of the tariff bill of July, 1789, a measure which proved to be an effectual barrier to the tide of foreign imports and a stimulus to home industry, agricultural, commercial, and manufacturing. This marked the beginning of a new era in the industrial history of the republic.*

* J. Leander Bishop, *A History of American Manufactures*, vol. i. (3 vols., Philadelphia, 1868); *The South in the Building of the Nation*, vol. v., *Economic History* (12 vols., Richmond, 1909); W. B. Weedon, *Economic and Social History of New England, 1620-1789* (2 vols., Boston, 1899); J. M. Swank, *History of the Manufacture of Iron in All Ages* (Philadelphia, 1892); P. A. Bruce, *Economic History of Virginia in the Seventeenth Century* (2 vols., New York, 1896); G. S. Callender (ed.), *Selections from The Economic History of the United States, 1765-1860* (Boston and New York, 1909); A. S. Bolles, *Industrial History of the United States* (Norwich, 1889); Carroll D. Wright, *The Industrial Evolution of the United States* (New York, 1895); Katharine Coman, *Industrial History of the United States*

Agriculture.

During the decade immediately preceding the Revolution, agriculture made some progress both in New England and in the Middle colonies, although this progress was in no wise comparable with the advance in the South. In New England a growing population found most profit in fisheries, shipbuilding, lumbering, manufacturing, and other non-agricultural pursuits. Consequently, most of what was raised in that section went to meet the demands of home consumption, although there were some exports of food stuffs, particularly to the West Indies. New York and Pennsylvania raised more for export than did the States of New England.

Export figures for this decade make clear this relative agricultural condition of these two sections of the country—a condition that not only persisted throughout the century, but strengthened as time went on. By the end of the century New England had almost entirely withdrawn from agriculture, save for home needs, while the Middle States were beginning to feel the first industrial impulse toward dairying and mining, which were destined to develop into commanding proportions in the next century.

Meantime, the South continued on its way with its cultivation of plantation crops, although even there agri-

culture in its broadest sense was rudimentary in methods. In Georgia, as late as 1790, “agriculture as we know it can scarcely be said to have existed. The plough was little used. The hoe was the implement of husbandry.”* Virginia and the Carolinas, though ahead of Georgia in this respect, were not far advanced, save in the production of their principal staples, tobacco and indigo.

Tobacco continued to be the leading product of the South throughout the colonial period, especially in Virginia, where it was the main source of industrial prosperity. In 1765 the crop amounted to 75,482,000 pounds and nine years later it was 101,282,617 pounds. There was a falling off during the years of the Revolution, but the high water mark in size of crops was reached toward the end of the century. In 1790 the crop, in round numbers, was 130,000,000 pounds, but the price had fallen to 3.40 cents per pound. Over one-half of the total Southern population was then either engaged in or depended upon the cultivation of tobacco. About this time improved methods of curing tobacco were introduced, particularly by the application of artificial heat.†

Although cotton was planted in the South early in the colonial era, it did not become a commercial rival of tobacco until after the opening of the Nineteenth century. The adaptability

(New York, 1905); J. B. McMaster, *A History of the People of the United States* (7 vols., New York, 1884-1910)

* McMaster, *United States*, vol. ii., p. 4.

† *The South in the Building of the Nation*, vol. v., p. 163.

of Southern soil and climate to the raising of this staple was well known, but as yet there was no world market for it. Grown in the Carolinas in 1664, in Georgia in 1735, in Florida in 1754, and in Louisiana in 1722, it was utilized only in making the coarsest cloth for domestic weaving. During the Revolution, renewed efforts were put forth to cultivate and manufacture it, for the reason that trade with England being cut off, there was a dearth of clothing. Washington, Hamilton, Jefferson, Madison, and other public men of the day expressed themselves hopefully that cotton might yet become a valuable staple; but, while the certainty of being able to raise it in large quantity was generally recognized, no market for it had as yet appeared. In 1786 the sea-island cotton was introduced into South Carolina from Barbadoes, and a considerable impulse was given to efforts to enlarge cultivation.

Sugar, which was destined to become one of the great staples of the South, was not known there until the middle of the Eighteenth century. Cane was brought into Louisiana and planted in 1751; in 1759, 1761, and 1765 attempts were made to manufacture sugar, but without success, only small quantities being produced for home consumption.

Introduced into South Carolina in the last decade of the Seventeenth century, rice soon became the staple commodity of that colony, attaining to the dignity of an export as early

as 1707. Improvement in its culture went on steadily. In 1754 Charleston, S. C., exported 104,680 barrels. Upland rice was first cultivated in 1772, and culture by water was introduced in 1784. It was successfully cultivated in Louisiana as early as 1718. Although at first confined to South Carolina, its culture slowly spread to adjacent States and before the close of the century it was raised to some extent in North Carolina, Georgia, Florida and Louisiana. The low, rich lands of South Carolina were particularly favorable to the growth of this plant and thus gave to that State a preëminence in this branch of agriculture that was never lost.

Hemp and flax culture began in the South in the latter part of this century, the gradual settling of western Virginia, western Carolina, and Kentucky bringing this about, as the people of those sections needed a clothing substitute for the cotton of the seaboard colonies. The first hemp crop on record was grown in Kentucky in 1775 and thence its culture spread to Tennessee, Arkansas and Missouri. "It was largely the hemp interest which decided that Missouri was to be a slave state and which nearly brought Kansas into the same category. It was the hemp interests of Kentucky which sent Henry Clay to Congress, and forced the establishment of the protective system in the United States." *

* *The South in the Building of the Nation*, vol. v., p. 232. See also W. B. Weedon, *Economic and*

Labor.

Just prior to the Revolution came the invention of spinning machines in England by Arkwright, Hargreaves and others, and later, in 1785, the Cartwright power loom. Desperately determined to retain the manufacturing supremacy of the world which then belonged to it, England instituted strenuous measures to prevent America from acquiring any knowledge of these labor-saving devices. As early as 1774 stringent laws were passed prohibiting the exportation of any tools or utensils used in the manufacture of cotton or linen or of any such goods manufactured. This law was reenacted and enlarged in 1781 and again in 1782, so as to cover cotton, woolen, linen, silk, calico and muslin, and also iron and steel manufactures. The emigration of artisans versed in this work was made illegal.

But these efforts of the mother

Social History of New England (2 vols., Boston, 1894); L. H. Bailey (ed.), *A Cyclopædia of American Agriculture*, vol. iv. (4 vols., New York, 1909); Moses Jacobstein, *The Tobacco Industry in the United States* (New York, 1907); Ulrich B. Phillips (ed.), *Documentary History of American Industrial Society*, vols. i. and ii., *Plantation and Frontier* (Cleveland, 1910); *American Husbandry* (2 vols., London, 1775); F. J. Chastellux, *Travels in North America* (2 vols., London, 1787); M. B. Hammond, *The Cotton Industry*, in *Publications of the American Economic Association* (New York, 1897); P. A. Bruce, *Economic History of Virginia in the Seventeenth Century* (2 vols., New York, 1896); J. C. Ballagh (ed.), *Economic History, 1607-1865*, vol. v., in *The South in the Building of the Nation* (12 vols., Richmond, 1909); Charles L. Flint, *One Hundred Years of Progress* (Report of the United States Department of Agriculture, Washington, 1872).

country to prevent her colonies from deriving any advantage from these new inventions proved altogether futile. In the fulling and carding-mills which were numerous in all parts of the country was the foundation for the new factory system. The South could be depended upon to supply the necessary raw material in the shape of cotton. Only the machinery of England was lacking, and American ingenuity set for itself the task of securing that. As an ultimate result of efforts in the direction of the invention and improvement of mill machinery, the factory system of labor was established in this country within a quarter of a century after it had been instituted in England. Prior to this time labor throughout the colonies, free, servitude or slave, had been individual and hand work, whether in agriculture, mining, fisheries or manufacturing. To a considerable extent, it was a household or family institution. Much of it was done in the workers' homes or on the farms, plantations, at shipyards or mines of proprietors who were small employers. With the introduction of machinery, began the system of collective labor as an adjunct to machinery, a system which very soon completely reversed labor conditions and labor results as they had before existed.

Philadelphia was the first place in America to procure a spinning-jenny from England. This was early in 1775, but it was not until after the war had ended that efforts were made

to get the new machines. This was duly accomplished by surreptitiously bringing across the Atlantic parts of machines, or plans; by ingenious mechanics here reconstructing English machines from memory; or by inventions of native artisans.

In 1786 Hugh Orr of Bridgewater, Mass., a pioneer in American manufactures, employed two Scotchmen to build a spinning-jenny and other machines patterned after the English and in the following year a cotton factory was erected in Beverly, Mass., and equipped with machinery. Similar factories were erected in Rhode Island, New York and Pennsylvania, but the immediate great development of the factory system took place in Rhode Island and Massachusetts. Samuel Slater, a young Englishman who had acquired a complete knowledge of cotton manufacturing and the machinery used in the industry, came to the United States in 1789. He was able to construct machinery on the English plan and in association with Messrs. Brown and Almy, manufacturers of Providence, R. I., he built and equipped a small factory in Providence in 1793. This was the first successful cotton mill in the United States, and with it tentatively begun the factory system of labor which was developed to amazing proportions in the next century.

In the South the system of free contract labor and that of servitude was gradually but surely displaced by

slave labor. At the time of the Revolution negro slavery was in many quarters not much more favorably regarded than it was in the North. Washington, Jefferson, and other patriot leaders were opposed to it on principle, and their views ripened into plans for emancipation in 1779 and 1796; but these came to naught, although in the States of the Upper South many individuals did free their slaves. Industrial distress in the slave-holding States and the growing doubt regarding the economic worth of slave labor were operating to undermine this institution.

But contrary influences were operating more strongly and, in the end, more effectively. The great inventions which had brought about the industrial revolution and the establishment of the factory system in the North were powerful factors in determining labor conditions in the South. The machines for making cotton fabrics and finally the cotton gin, all of which had come into the industrial field within a few years after the close of the war, multiplied many times the demand for the cotton staple. It is true that this demand was not dominant until after the next century had opened, but the future was forecast clearly enough to thoughtful minds substantially to affect the labor situation. There could be little doubt that the South was destined to be the great cotton-producing section of the country, and even then there were those who, look-

ing ahead, believed that they could foresee in the near future the predominance of the South over the rest of the world in this industry. But cotton-raising called for negro-slave labor, while at the same time the increasing commerce of the country was developing a large demand for tobacco, rice, and other slave-made staples.

Thus it came about that the industrial trend of the Revolutionary period wrought two pronounced and strikingly different changes in the labor conditions of the country. In the North, free labor became concentrated and less individual. In the South, slave labor became fixed in its

status. Both these new conditions persisted for generations and were determining factors in the economic and political future of the country.*

* W. B. Weedon, *Economic and Social History of New England, 1620-1789*, vol. ii. (2 vols., Boston, 1899); Bruce, *Economic History of Virginia in the Seventeenth Century* (2 vols., New York, 1896); Carroll D. Wright, *The Industrial Evolution of the United States* (New York, 1895); J. A. Doyle, *The English Colonies in America* (New York, 1882). For white servitude and slavery in the South, see *Johns Hopkins University Studies*, series xiii., nos. vi.-vii., series xiv., nos. iv.-v., series xvii., nos. vii.-viii., and series xxii., nos. iii.-iv. (Baltimore, 1895-96-99-1904); Peter Kalm, *Travels into North America* (3 vols., London, 1771); Alexander Brown, *The Genesis of the United States, 1605-1616* (2 vols., Boston, 1890); Peter Force, *Tracts and Other Papers Relating to the Colonies in North America* (4 vols., Washington, 1836-1846).

CHAPTER III.

1764-1789.

COMMERCE: TRANSPORTATION: BANKING AND CURRENCY.

Illicit and indirect trade — Volume of trade before and after non-importation agreements — Varieties and values of exports from Northern colonies — Imports and exports of the Southern colonies — Roads and thoroughfares in early colonial times — Growth of merchant marine — Clearances of vessels at American ports — Vessels owned in colonies — Aggregate tonnage in American carrying trade — Revenues collected by taxation and imports insignificant — Bills of credit issued by Congress and States — Their depreciation — Loan-offices established — Failure of the scheme for national taxation — Bank of North America instituted — Foreign loans — Congress vested with power to impose duties — Issues of paper money.

Commerce.

As the Revolutionary period approached, the commerce of the colonies began to show more and more the effect of the controversies that were continually going on between Great Britain and her American subjects. But exports and imports fluctuated

as the anti-colonial legislation of the mother country was pressed or relaxed. Colonial resentment against the repressive policy of Great Britain had long before led to smuggling, which was carried on extensively in the New England and Middle colonies by merchants and others, many

of whom ultimately became the patriot leaders in the struggle for independence. Of this smuggling commerce, which was undoubtedly large in amount and which went on almost without break for more than a hundred years, there was naturally little record. But the essential truth of the statement that "the colonists were a nation of law-breakers; nine-tenths of the colonial merchants were smugglers,"* cannot be denied. Large imports from England were paid for in reimports or in smuggled goods. Fully one-half the trade between New York and Boston and the West Indies was illicit, and Lord Sheffield estimated that this illicit and indirect trade to England between 1700 and 1773 amounted to more than £30,000,000.

Finally the colonies operated more openly and by legal methods, in the non-importation agreements which they entered into in 1768. As a result of these measures, the recorded commerce with Great Britain was greatly reduced, especially in the North. In the following table is an exhibit of the exports from Great Britain before and after these agreements were effected:

	1768	1769
To New England	£430,807	£223,696
To New York	490,674	75,931
To Pennsylvania	441,830	204,976
	<hr/>	<hr/>
	£1,363,311	£504,603
	<hr/>	<hr/>

To Maryland and Virginia	£669,422	£614,944
To North and South Carolina	300,925	327,084
To Georgia	56,562	58,341
	<hr/>	<hr/>
Total	£1,026,909	£1,000,369
	<hr/>	<hr/>

It will be observed that in the Southern colonies the agreements were less strictly adhered to than in the North. While in the North importations were reduced more than one-half, the reduction in the South was trifling—less than 3 per cent. This was on account of the predominance of the tobacco and cotton raising industries of the South, which made that largely an importing section with limited ability to supply their home needs from home industry. Within the next three years the trade from Great Britain recovered somewhat, being £1,979,416 in value in 1772, nearly £475,000 in excess of that of 1769, though still below that of 1768 by over £400,000. And in less than four years more it was practically all gone.

But a considerable trade was maintained until close upon the breaking out of actual hostilities. From 1765 to 1775 New England, besides supplying her home needs, exported principally dried codfish, valued at £100,000; whale and cod oil £127,000; pickled mackerel and shad £15,000; pickled beef and pork £28,500; masts, boards, staves and shingles £75,000; ships £49,000; horses and live stock £37,000; potash £35,000; very little indeed of agricultural products. Dur-

* David A. Wells in Lalor's *Cyclopædia of Political Science*, vol. i., p. 75.

ing the same period the principal exports of New York were flour and biscuit valued at £250,000; wheat £70,000; Indian corn and other grains £40,000; salt beef, and other meats £18,000; flaxseed £14,000; horses and live stock £17,000; almost entirely agricultural products. Pennsylvania showed a record similar to that of New York, her leading exports being biscuit flour valued at £350,000; wheat £100,000; Indian corn and other grains £12,000; salt beef and other meats £45,000; tongues, butter and cheese £10,000; live stock and horses £20,000; flaxseed £30,000,—all agricultural products. The only exports of Pennsylvania that rivaled any of its food stuffs were deer and other skins £50,000; lumber in various forms £35,000; ships £17,500; copper and iron £35,000.

The eminence of New England in colonial commerce, with Boston and Newport as the leading seaports, continued until well toward the Revolution. The foreign shipping of Boston in this period amounted to nearly 600 clearances every year. Newport had 30 distilleries which needed to be fed with molasses from the West Indies, and that meant a large trade. Immediately prior to the Revolution, Philadelphia became the chief port in North America. An export trade of more than £700,000 annually was carried on in about 400 vessels, 50 per cent. more than the exports of all the New England ports at that time. The imports and ex-

ports of the two Southern colonies which were depending upon tobacco were still far to the front. Virginia and Maryland alone, in 1769, sent out exports to the value of £1,040,000 sterling and in the years immediately following the record was in similarly large figures, the exports being in excess of the imports.*

Transportation.

In the earliest colonial days, transportation was a simple proposition, for there was practically none of it. What little did exist was by water, a few vessels coming from European ports, principally England, to the scattered settlements along the seaboard, bringing supplies and returning with lumber and other colonial products. Now and then a ship was sent from one colonial port to another for purposes of trade. Inland there was absolutely no transportation or need therefor. A trackless waste of

* Adam Seybert, *Statistical Annals* (Philadelphia, 1878); John Baker Holroyd (Lord Sheffield), *Observations on the Commerce of the American States* (London, 1784); J. P. Brissot, *The Commerce of America with Europe* (New York, 1795); G. L. Beer, *Commercial Policy of England toward the American Colonies* (New York, 1893); J. McGregor, *Commercial Statistics of the United States, in Progress of America* (London, 1847); J. S. Homans, *An Historical and Statistical Account of the Foreign Commerce of the United States* (New York, 1857); E. L. Bogart, *Economic History of the United States* (New York, 1908); P. A. Bruce, *Economic History of Virginia in the Seventeenth Century* (2 vols., New York, 1896); W. B. Weedon, *Economic and Social History of New England, 1620-1789* (2 vols., Boston, 1890); J. C. Ballagh (ed.), *Economic History, 1607-1865*, vol. v. in *The South in the Building of the Nation* (Richmond, 1909).

forest land backed up the narrow fringe of settlement on the Atlantic coast from Nova Scotia to Carolina. Hardy pioneers who ventured inland to found new settlements blazed their way through the woods or sometimes along the Indian paths. They traveled on foot and carried their few belongings on their backs. Before the middle of the first century they had added horses and cattle to their possessions, and these were used to transport the few things that were needed. Rude wagons were built, and with these land transportation, slight though it was, had its beginning.

Very soon better means of land communication between different parts of the country were inaugurated, but nothing of real convenience existed until well into the second century. Roads were built, but for the most part they were merely township affairs. They were more general and better in the New England and Middle colonies than in the South. Massachusetts had very good thoroughfares from town to town, except over the hills, and the old Boston road from New York City to Boston served its purpose. From New York City to Albany, on the east bank of the Hudson River, was a good post road. In Pennsylvania and in New Jersey the roads generally were of the most primitive character and practically impassable in any but the best weather. It was a two days' trip from New York City to Philadelphia by stage coach, double that

from New York City to Boston, and seven or eight days by sloop from New York City to Albany. To the time of the Revolution there was little intercolonial travel or transportation by land, while in the winter communication even by water was almost completely cut off.

The necessity and the convenience of transportation by water were early impressed upon the minds of the colonists, and out of this condition grew the large shipbuilding and merchant marine, particularly of the Northern colonies. Not only was foreign commerce thus stimulated, but shipments and trading from colony to colony were almost entirely by coasters along the Atlantic seaboard. Thus it is that transportation and merchant marine are almost synonymous terms for the entire colonial period.

When the second century had opened nearly all the colonies had a merchant marine of considerable size. Beginning with 1704, there were newspapers which gave shipping news—in fact most of the domestic news which they printed was of this character. For the first two decades of the Eighteenth century, the columns of *The Boston News-Letter* must be the main reliance for information upon this point. It appears from the record of arrivals and clearances, from New York and Boston particularly, that trading was almost entirely with the other colonies, the West Indies, Fayal and Madeira, Newfoundland and England. Most of

the vessels were sloops or brigantines. It was not unusual for the port of New York or the port of Boston to have weekly clearances to the number of twenty or more. At this time the war of the Spanish succession was raging and French privateers were harassing American vessels trading to the West Indies and to England. Consequently, the merchantmen went back and forth under convoy of men of war, and from the accounts of these sailings we have some idea of the proportions to which the colonial marine had then attained. For example, in May, 1704, 35 vessels cleared together from Barbadoes for New York, Philadelphia, Rhode Island and Boston. On June 7 of the same year the Virginia fleet of 143 vessels sailed for English ports under convoy. In August, 1706, a fleet of 200 vessels sailed from Virginia to England under convoy of five men-of-war. In September, 1706, a fleet of 60 merchantmen sailed on a single day from Barbadoes for England and various American ports. A colonial merchant fleet of from 100 to 200 vessels sailing under convoy to or from England was not unusual.*

A list of the vessels owned in New York City in 1684 showed 3 barks, 3 brigantines, 26 sloops and 46 open boats. In the same year, from March to November, there were 86 clearances up the Hudson River to Esopus

and Albany. In 1687 Governor Dongan reported that New Yorkers owned 9 or 10 vessels of from 80 to 100 tons each, 2 or 3 ketches and barks of about 40 tons each and some 20 sloops of from 20 to 25 tons each. Newport, R. I., rivalled Boston and distanced New York in its shipping. For the calendar year 1764 the custom house books of that port recorded 180 vessels there owned, engaged in foreign trade, and 352 in coasting from Newfoundland to Georgia. On these vessels 2,200 seamen were employed. In the West India trade alone 150 vessels were engaged and 14,000 hogsheads of molasses were annually brought thither.

When the Revolution broke out, colonial built vessels to the aggregate of 398,000 tons were employed in the general commerce of Great Britain. In the carrying trade between Great Britain and the American colonies alone at this time, there were 662 vessels, having an aggregate tonnage of 86,744; of these, 497, with a tonnage of 65,058, belonged to British merchants, and 165, with a tonnage of 21,686, to merchants of the colonies. At the same time there were in the intercolonial merchant marine, including the West Indies, 136 British vessels, with a tonnage of 6,358, and 781 colonial vessels, of a tonnage of 37,032.* In number of vessels the colonies were far ahead

* Lyman H. Weeks and Edwin M. Bacon, *An Historical Digest of the Provincial Press*, vol. i., *passim*.

* *Report of the Lords of the Committee of Privy Council for Trades and Plantations*, p. 74 and Appendix (London, 1791).

of the mother country, but in tonnage they were behind. Their almost complete monopoly of the intercolonial and West India trade, where the vessels were of small size, instead of ocean-going ships, accounts for this.*

Banking and Currency.

The perfection of a financial system of any sort is one of the last steps in the governmental development of any new country. In the stern business of nation-building the matters of banking and currency are apt to remain in a rather chaotic condition for some time, and this was preëminently the case with the American colonies during their early days. Public credit for all practical purposes was then non-existent, nor did banks, in the modern acceptance of the term, have any place in the colonial scheme of things. For this reason it was at that time impossible to secure any large loans in this country through influential or really reliable sources. A few of the local powers demanded excise duties on articles which were then deemed luxuries, and a property tax was gen-

erally levied by all the colonies, while almost as many imposed tariff duties on both exports and imports. The revenues collected in these ways, however, were for the most part insignificant. The oppression of taxation, forming as it did one of the most dominant causes in impelling the colonists to throw off the yoke of Great Britain, had embittered the whole country to such an extent that the people were suspicious even of taxation from within. Furthermore, the newly appointed Continental Congress had vested in it no power for the collection of revenue, and this fact, coupled with the lack of available loan agencies, left that body almost penniless when hostilities were finally opened with the mother country in 1775.

In an effort to overcome this embarrassing situation and raise the absolutely indispensable funds for carrying on the war, the Continental Congress decreed an issue of bills of credit. Altogether, forty emissions of notes occurred in the interval from June, 1775, to November, 1779, their aggregate face value amounting to \$241,000,000, in addition to which the various States put out \$209,000,000. All of these pledges had only the faith of Congress as security and, although that body called upon the individual States again and again to provide means for making good, the issues were never redeemed. The logical result was that, from the beginning, a steady depreciation in the value of the

* Willis J. Abbot, *American Ships and Sailors* (New York, 1902); William W. Bates, *The American Marine* (Boston, 1903); E. L. Bogart, *Economic History of the United States* (New York, 1908); William W. Bates, *American Navigation Its Rise and Ruin* (Boston, 1902); Winthrop S. Marvin, *The American Merchant Marine* (New York, 1902); Weeks and Bacon, *An Historical Digest of the Provincial Press* (Boston, 1911); Adam Seybert, *Statistical Annals* (Philadelphia, 1818); U. S. Hill, *History of American Shipping* (New York, 1883).

notes took place. In 1780 the government at length realized the futility of further attempting to make good its pledges, and accordingly arranged for the acceptance of paper currency in place of silver at the ratio of 40 to 1. Despite this fact, the depreciation continued so steadily that the notes were popularly considered as so much waste paper. Finally in 1790, when official estimates placed the total of the issue then outstanding at about \$78,000,000, Congress passed the funding act which included the provision that all notes still outstanding could be retired at the rate of 100 to 1. Meanwhile Congress was making desperate efforts to repair the national fortunes. Loans were sought both at home and from foreign powers; attempts to impose national taxation were made; and requisitions both in specie and specific supplies were levied. The latter method was a sorry failure. The demand for specie netted only a little more than \$5,000,000, while that for supplies not only failed to work out to practical advantage, but resulted in actual waste.

It was at this juncture, with the necessity of borrowing funds becoming more and more urgent, that the first really important step in the establishment of a national banking system was taken by the establishment of loan offices in many of the States. These sold indented certificates bearing interests which ranged from 4 per cent. to 6 per cent. In this way loans

totaling approximately \$63,000,000 were made, the specie value of which became \$7,600,000 in 1780, according to the scale of depreciation then decided upon by Congress. Two years later, when Congress found itself unable to meet the interest on these, indents were issued to the holders of certificates. These became current in the payment of State taxes, following which they could be turned back upon the national government when the latter demanded its requisitions from the several States. At the same time the government made no progress in its many attempts to impose national taxation.

The new government could undoubtedly have made better progress with its finances, had not the Articles of Confederation (which became operative in 1781) so limited its scope as to leave it practically no financial powers. A common treasury, maintained by all the States proportionately to the value of land and improvements in each and administered by the States, was the original means of defraying expenses for the common defense or general welfare. When Congress tried to impose a 5 per cent. tariff on all imports in the same year that the Articles of Confederation took effect, it failed to receive the approval of the States. A similar attempt, made two years subsequently on a somewhat more elaborate scale, was likewise unsuccessful.

The general fear of the results of any centralized power, which at that

time, not unnaturally, pervaded the country, retarded, perhaps, as much as anything else any fiscal systematization in this country. The administration of the nation's finances by the Continental Congress was directed in the beginning by two separate treasurers. These were followed by a committee of thirteen congressional delegates, who, in turn, were superseded by a treasury board which was empowered to manage all public moneys. It was not until 1781 that the financial system became centralized under one head. In that year Robert Morris, who may really be termed the pioneer American banker, was selected to act as superintendent of finance. From the time he came into office he labored zealously and efficiently to place the finance, banking, and currency of the country on a firmer basis; and although his efforts to secure national taxation proved of no avail, he did succeed in stimulating the government to a great extent by borrowing moneys on the strength of his own personal credit. It was at his advice, too, and very largely through his unremitting efforts, that the Bank of North America was instituted. Through the years of 1782 and 1783 this institution was of great service to the nation as a temporary loan agency.

The nation's foreign loans began as early as 1777, when comparatively small sums were borrowed from France. Later Spain and Holland also came to the aid of the colonists.

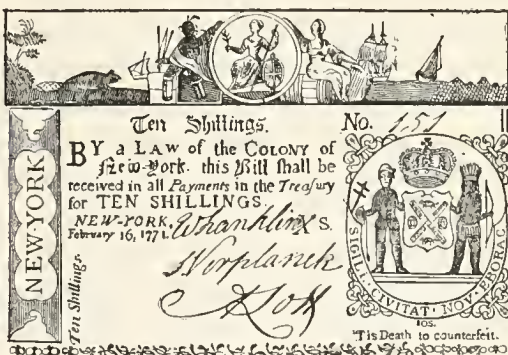
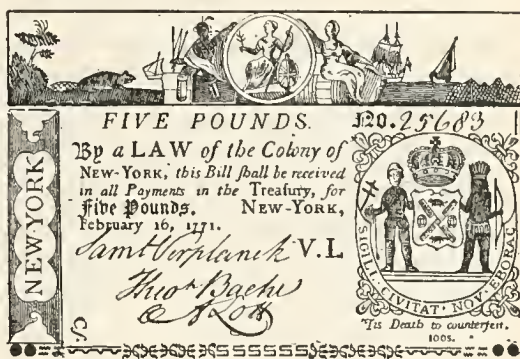
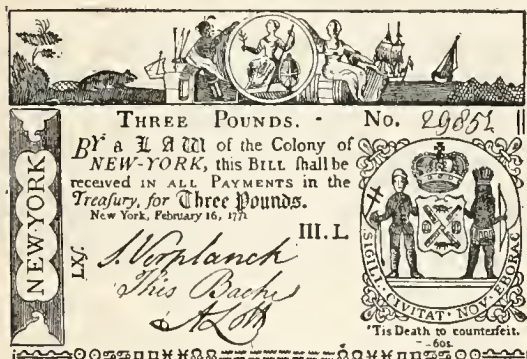
Altogether, from 1777 to 1783, \$6,352,000 was secured in this way from France, \$1,304,000 from Holland, and \$174,000 from Spain. The country's first bankers' loans occurred in 1782, being placed with Holland and continuing, luckily for America, until after hostilities had been broken off and the new government of 1789 was fairly established.

In 1784 the national government was in debt to the extent of \$39,000,000, with an annual interest charge of \$1,875,000 — and this not including the still outstanding bills of credit. Coupled with the unavoidable governmental expenses, this was far more than the slender resources of the nation could bear. When, in 1787, total bankruptcy appeared the certain fate of the country, a national convention was called for the purpose of drawing up a constitution by which the government might be vested with the larger financial powers then clearly seen to be imperatively needed if disaster was to be averted. It was through the Constitution, framed on that occasion, that the right to impose duties on exports and imports was withdrawn from the individual States, except in such cases where the enforcement of local inspection laws should make such action imperative, and that empowered Congress to fix the tariff and to both lay and collect taxes. This furnished the government with the two financial supports of which it was just then in most des-

perate need, and showed itself to be a vital force when the new government took up its work in 1789.

The action of the Continental Congress in 1776 marked one of the first attempts to issue paper money in America. Prior to this some of the

them no attempt was made at engraving. When the new government came into being in 1789, except for the depreciated notes issued during the course of the war, there was no currency afloat, save an occasional Bank of England note, a few Spanish milled



individual colonies had issued a script in lieu of currency, but no real issue of paper had been previously floated. These first notes were printed on common paper at the printing office of Paul Revere. Although almost all of them were nearly square in shape, they were not of uniform size, and on

dollars, and French five-franc pieces. It remained for Alexander Hamilton, when he became finance minister under the new government, to set about giving the country an effective financial standing and at the same time secure a stable and uniform currency.

CHAPTER IV.

1764-1789.

SOCIAL AND INTELLECTUAL PROGRESS.

Early educational institutions — University of North Carolina founded — Colleges founded in South Carolina, Georgia and Maryland — Dickinson College, Pa., and the University of Tennessee — Medical schools — Secondary education — The Phillips Academies — Land grants for educational purposes — Thomas Jefferson's educational plans — Compulsory education — Education of females — Religious tolerance more manifest — Progress of the Episcopal Church — Congregationalists and other sects — Number of ministers and churches — Separation of Church and State — Scarcity of native literature in early colonial period — Early literature chiefly historical — Principal contributions of the South — Libraries in New England — Historical literature in New England — Controversial sermons and tracts — The Mathers and John Cotton — Edwards and Franklin — Dutch literature — Printing introduced — Newspapers — Political essays, pamphlets, etc. — Number of books published — Early American Art.

Education.

The period immediately preceeding the breaking out of the war for independence was not conducive to general attention to the cause of education. Aside from the ordinary pursuits of life, the people were mostly interested in the consideration of the great public issues of the hour and the impending conflict with the mother country. Primary education made some progress in nearly all the colonies, but it was progress of a desultory character and not of great extent. The movement for academies began in a small way and several new colleges were established. The College of Rhode Island, later to be known as Brown University, was instituted in 1762 and had one student in 1765. Queens College, afterward to be Rutgers, was started in New Jersey in 1764 and chartered in 1770. Hampden and Sydney Col-

lege was started in Virginia in 1766, and Dartmouth College began as an Indian missionary school in the wild woods of New Hampshire in 1770. About 2,500 graduates from American colleges were living in the colonies in 1775.

When the war had been brought to a successful conclusion, the cause of education assumed a prominence in the minds of men second to the cause of freedom. In eight States colleges were in existence, and presently there were movements looking to the establishment of collegiate institutions in other States. By its constitution of December, 1776, North Carolina had expressed a purpose to found one or more universities, and now in December, 1789, only a few days after the adoption of the Constitution of the United States the State chartered the University of North Carolina, although it was not until six years

later that this university was opened to students. In South Carolina, immediately that peace was assured, the Legislature passed an act for establishing three colleges, and under the provisions of this act the college at Charleston was started. In the same year the State of Georgia gave a charter to the University of Georgia. In 1784 the University of Maryland was chartered and, as parts of that institution, Washington College at Chestertown and St. John's College at Annapolis were founded. With Dickinson College in Pennsylvania in 1783 and the University of Nashville in Tennessee in 1785, the list of colleges opened in this period is completed. During the colonial period the collegiate institutions were distributed along the Atlantic seaboard from Massachusetts to Virginia. There was no marked change in this respect until sometime after the close of the Revolution, except that the establishment of Dartmouth in New Hampshire and the University of Nashville in Tennessee were the first slight indications of any considerable movement of the population into the interior. Three medical schools, in Philadelphia, New York City and Cambridge, Mass., and one law school, in Connecticut were started in this period, but their history belongs to the next century.

In the latter part of the century secondary education made its appearance in the academies, which were established to supplement the gram-

mar schools and which were the forerunners of the high schools of more modern times. The academy was essentially a private institution, though it sometimes received State help and not infrequently became ultimately incorporated in the public school system. The first incorporated academy was founded in Philadelphia in 1753, through the efforts of Benjamin Franklin. In Massachusetts there was no academy until 1788, when the Phillips at Andover was started, while about the same time Phillips Academy at Exeter, N. H., was also started. In 1761 Lieutenant-governor Dummer of Massachusetts bequeathed his mansion and 330 acres of land in Byfield for the establishment and support of a school, but it was not until 1782 that the academy which bore his name was incorporated — the third in New England. Its activity, however, preceded its incorporation and it was the influence which went out from it that led to the founding of the two Phillips Academies and later, in 1784, that at Leicester, Mass.

The other colonies were not slow in fostering the cause of education during the post-Revolutionary period. In Maine, then a part of Massachusetts, schools were in operation in 1761, 1764, 1774, and 1779, and under the law of 1789 school districts were organized. In the constitution of Vermont in 1777 it was ordered that schools should be established in each town. Schools in Delaware were

either private or church institutions. A school was opened in Wilmington in 1765 by the Friends and the afterward famous Presbyterian academy in Newark was established in 1767. Delaware made its first land grant for education in 1772, to the town of New Castle for a school plot. North Carolina, in addition to its public, private and church schools, had an academy at Wilmington in about 1760 and one at Newbern in 1764. At the close of the Revolution, South Carolina had eleven public schools, three charitable grammar schools and eight private institutions. When the State constitution of Georgia was framed in 1777, it provided that schools should be erected in every county of the State and supported at the general expense of the State. In 1783 the same State enacted a law providing that the governor might grant 1,000 acres of vacant land for the establishment of a school in each county, and this was the beginning of the poor-school system of the State. In Virginia in 1779 Thomas Jefferson introduced his plan for elementary, secondary, and higher education in free schools and for the ensuing two decades persistently pressed his views, but without favorable results. In New York State legislation was begun in 1786, when it was ordered that in each new township laid out from the unappropriated lands one section should be reserved "for the gospel and schools" and one "for promoting literature." Special appropriations were also made

for the academies. In 1789 Massachusetts passed a general school law which made the establishment of primary and general schools in all towns and rural districts compulsory, and in the same year New Hampshire decreed that there should be grammar schools in all the towns of the State. Vermont placed its first school law on its statute books in 1782, establishing the districts system.

In the earlier colonial period the education of women was comparatively neglected. Household duties rather than book learning were regarded as the essentials for the sex. Girls depended mostly upon home instruction for whatever education they received. Neither the common schools nor those for secondary education afforded or were designed to afford accommodations for them. There were exceptions to that rule, however. In Boston, New York, and other cities there were a few private day and boarding schools for girls, and in 1749 the Moravians at Bethlehem, Pa., established a school for girls that in subsequent years became one of the most flourishing female seminaries in the country.

It was close upon the beginning of the Revolution before any considerable attention was given to this matter, and even then the movement was very feeble. It began in Massachusetts. In 1766 the town of Medford voted that the girls might be instructed "two hours in a day after the boys are dismissed. Shortly

arrangements were made in some of the towns to teach the girls in the summer months when the boys were so engaged in other pursuits that they had no time to attend school. Thus Dorchester in 1784 and Gloucester in 1790 arranged; the resolutions of the latter town explained that this measure was instituted because the females "are a tender and interesting branch of the community, but have been much neglected in the Public Schools of this town." In Norwich, Conn., the girls were admitted "from 5-7 A. M." and in New London in 1774 they were taught in the summer months, also from 5 to 7 in the morning. Boston in 1790 and Northampton, Mass., in 1788 voted to admit girls to the schools in the summer months.*

Religion.

As the Revolutionary period opened, religious conditions in the several colonies had become substantially fixed. The influx of emigrants of various nationalities in the preceding half century and more had re-

sulted in the introduction of new denominations of differing faiths and varying methods of church organization. In this wide diffusion of divergent views, the early Puritanism and the later Episcopalianism had lost their hold upon the people. Church and State had not yet reached the point of actual and complete severance, but that end was approaching and was already manifest. Tolerance was everywhere more manifest on the part of the older churches. But on the part of the people there was not that devotion to or respect for religion which had characterized the preceding century. The policies of the generation, the consideration of the impending struggle with the mother country, were engaging men's minds and religion was neglected.

Although the Episcopal was the first Protestant Church on the American continent, and was especially favored by the civil government in several of the colonies (Virginia, Maryland, New York, and the Carolinas), it did not attain to a marked degree of prosperity in the colonial period. When the Revolution began, it had not more than eighty ministers north and east of Maryland, and many of these, outside the large cities and towns, were supported by the English Society for the Propagation of the Gospel in Foreign Parts and had been under such support for one hundred and fifty years. In Virginia and Maryland there were about one hundred and fifty ministers, and in the

* E. G. Dexter, *A History of Education in the United States* (New York, 1904); Elsie Clews, *Educational Legislation and Administration of the Colonial Governments*, in *Columbia University Publications* (New York, 1899); Charles F. Thwing, *A History of Higher Education in America* (New York, 1906); J. B. McMaster, *A History of the People of the United States* (7 vols., New York, 1884-1910); John Fiske, *Old Virginia and Her Neighbours* (Boston, 1897); Richard G. Boone, *Education in the United States*, in the *International Education* series, vol. ii., (New York, 1889); P. A. Bruce, *Economic History of Virginia in the Seventeenth Century* (New York, 1896).

Carolinas very few. The Church was then decidedly unpopular by reason of its affiliation with the Church of England and the general adherence of its ministers to the royalists' side in the pre-Revolutionary period. After the Revolution, however, it entered upon a new career of prosperity. In 1785 all the American Episcopal churches were united in one body and the first American bishops were ordained in England by the Archbishop of Canterbury. In 1792 the Church had four bishops and about two hundred ministers.

New England continued to be the principal seat of the Congregational denomination. With the exception of Rhode Island, the Congregationalists were more numerous than any other religious sect; in all New England and in Massachusetts and Connecticut they were more in number than all others combined. In the other colonies, the Church was little known. The Quakers, the Baptists, and the Presbyterians everywhere divided the religious field with the communions earlier founded. This period was particularly noted for the marked advance of Presbyterianism in its membership and influence, the development of the Lutheran and the Reformed Dutch churches, and the beginning of Methodism.

It is not possible to ascertain the exact number of ministers and churches in the country when the colonies decided to separate from England. A careful estimate, based

largely on known figures, gives the number of ministers as 1,441 and the number of churches 1,940, divided as follows: Congregational, 575 ministers, 700 churches; Baptist, 350 ministers, 380 churches; Episcopalian, 250 ministers, 300 churches; Presbyterian, 140 ministers, 300 churches; Roman Catholic, 26 ministers, 52 churches; Lutheran, German Reformed and Reformed Dutch, each, 25 ministers, 60 churches; Associate, 13 ministers, 20 churches; Moravians, 12 ministers, 8 churches. At that time, the population of the colonies did not exceed 2,500,000 free persons. There was no bishop either in the Protestant Episcopal or the Roman Catholic church and no school of theology. The Methodists did not exist as a body distinct from the Episcopal Church and had no ordained ministers.*

When the Revolution came to its end, the churches were not in a healthful condition. The demoralization of war had adversely affected them and it was not until after the opening of the next century that spiritual conditions showed much improvement. But one thing of importance characterized the period; that was the distinct severance of the relations before existing between Church and State. The majority of the people were either attached to denominations distinct from the established or semi-established churches, or were entirely

* Robert Baird, *Religion in America*, p. 120.

non-religious. The events of the preceding quarter of a century had firmly fixed in men's minds the ideas of independence and freedom. It was inevitable that, having overthrown political or governmental domination, they should no longer submit to ecclesiastical domination.

The Colonial Congress of 1774 adopted an address in which "all old religious jealousies were condemned as low-minded infirmities."* Agitation for disestablishment had already begun in Virginia, and this was formally brought about by the bill of rights of the State convention of 1776 and various acts of the Legislature, 1776-1779. Progress toward complete religious freedom was made in nearly all the early State conventions, New Hampshire, 1779 and 1781; Massachusetts, 1778 and 1784; New York, 1777 and 1784; New Jersey, Pennsylvania and Delaware, 1776; Maryland, 1777; North Carolina, 1778; Georgia, 1777. In all the States, except Rhode Island and Virginia, there were qualifications in these enactments relating to religion and worship, but disestablishment was practically complete and religious freedom was conceded.†

Colonial Literature.

The period which saw Puritanism established in New England and Cavalierism in Virginia was, in English literature, the age of Shakespeare, Johnson, Bacon, Burton, Marston, Middleton, Chapman, Beaumont and Fletcher. In the middle of the century were Milton, Herrick, Baxter, Walton, Jeremy Taylor, Bunyan, Lovelace, Herbert and Browne, and before the century had ended the names of Dryden, Congreve, Bentley, Defoe, Newton, Locke and Temple had given added distinction to the already brilliant record in English letters.

From these cultured associations of the Elizabethan and Stuart periods came the founders of the future American republic. Many of the

Dexter, *The Congregationalism of the Last Three Hundred Years* (New York, 1880); W. White, *Memoirs of the American Episcopal Church in the United States* (Philadelphia, 1820); W. S. Perry, *Historical Collections Relating to the American Colonial Church* (5 vols., Hartford, 1876-1878); James S. M. Anderson, *The History of the Church of England in the Colonies and Foreign Dependencies of the British Empire* (3 vols., London, 1856); George Bancroft, *History of the United States of America* (5 vols., New York, 1883-1890); *The American Church History series* (13 vols., New York, 1893-1897); J. A. Doyle, *The English Colonies in America* (5 vols., London, 1882-1907); Justin Winsor (ed.), *A Narrative and Critical History of America* (8 vols., Boston, 1884-1889); John Fiske, *The Critical Period of American History* (Boston, 1889). Consult also histories of the several colonies, colonial documents, and histories of the different denominations. Extensive bibliographies are in Henry M. Dexter, *The Congregationalism of the Last Three Hundred Years* (New York, 1880), and S. M. Jackson, Appendix of vol. xiii., *American Church History series* (New York, 1894).

* Bancroft, *United States*, vol. vii., p. 159.

† Robert Baird, *Religion in America* (New York, 1856); Leonard Bacon, *The Genesis of the New England Churches* (New York, 1874); Leonard W. Bacon, *A History of American Christianity*, vol. xiii., in *American Church History series* (New York, 1897); W. Meade, *Old Churches of Virginia* (2 vols., Philadelphia, 1861); Sanford H. Cobb, *The Rise of Religious Liberty in America* (New York, 1902); H. M.

leaders in this enterprise were men of education and of literary tastes. Among them were college graduates, statesmen, clergymen, and other bookish men. In George Percy, William Strachey, George Sandys, Robert Beverly, William Byrd, William Stith and others of Virginia, and Bradford, Winthrop, the Mathers, Cotton, and others of early Massachusetts, there was sufficient literary taste and literary talent to make impression upon the new communities. It may not do to say that any real literature existed in America in the first colonial century, although in the second century there was much strong polemic and political writing.

In the first century the men of the South were men of action rather than of words: the Dutch of New Netherland were too busy in trade to give much time to writing; the educated clergymen of New England cared to write and print only as they preached. In the next century resistance to English governmental methods and the resultant disagreements between Whigs and Tories dominated men's minds. Thought found expression in oratory, in political papers, in controversial documents, in newspaper utterances upon the single great topic of the period; brilliant and masterful many of these productions were, but few of them fall into the category of literature.

In the beginning, those of the colonists who wrote at all wrote history,

and there was an astonishingly large amount of this in letters, in tracts, and in small books, mostly descriptive of the new country and of the experiences of the new comers thereto. Of the early Virginians it has been said that, almost without exception, their works were composed in strong energetic English, and had in them an element of new life and great wonder that does not fail to attract.* Substantially the same may as accurately be said of the writers of New Netherland and New England.

Captain John Smith leads the goodly company with his *A True Relation of Virginia* (1608); *A Map of Virginia* (1612); *A Generall Historie of Virginia, New England, and the Summer Isles* (1624), and other works of genuine historical importance. Then came William Strachey, from whose *True Repertory of the Wracke and Redemption of Sir Thomas Gates, Kt., upon and from the Islands of the Bermudas* (1610) Shakespeare seems to have drawn for the opening scenes of *The Tempest*. Alexander Whitaker's *Good News from Virginia* (1613); John Hammond's *Leah and Rachel, or the Two Fruitful Sisters, Virginia and Maryland*; George Sandys' poetical translation of Ovid's *Metamorphoses*, a work of remarkable literary character; Nathaniel Bacon's *Declaration in the Name of the People of Vir-*

* Carl Holliday, *Colonial Virginia Literature*, in *American Historical Magazine*.

ginia; Robert Beverly's *History and Present State of Virginia*; Hugh Jones' *The Present State of Virginia* (1724); William Byrd's *History of the Dividing Line* (1729); *A Progress to the Mines* (1732) and *A Journey to the Land of Eden* (1732); William Stith's *The History of the First Discovery and Settlement of Virginia* (1747); these constitute the principal contributions of the South to American literature prior to the beginning of the Revolutionary period.

In the Massachusetts Bay Colony the founders were men of superior education and intellectual attainments. Among them were a score or more who had enjoyed the advantages of Cambridge and Oxford. It is only necessary to recall the names of John Winthrop, Thomas Dudley, John Harvard, Richard Mather, Increase Mather, Roger Williams, John Cotton, John Eliot, Michael Wigglesworth, John Wheelwright, Henry Dunster, Thomas Shepard, John Norton, Charles Chauncey, Richard Saltonstall, John Wilson and others of equal eminence, to be impressed with a full sense of the intellectual character of this commonwealth. Before 1639, between forty and fifty university men were in the colony, one-half of whom were settled within five miles of Boston or Cambridge.

Naturally, these educated gentlemen brought books with them. Their libraries were not large and not many in number, but they played no small part in moulding the literary,

social, religious, and political institutions of the colony. John Harvard gave 300 volumes as the foundation of the library of Harvard College. When Governor John Winthrop died, in 1649, he also left a small lot of books to Harvard; some of these were in Latin, including a two-volume edition of Livy. Governor Thomas Dudley left a library of twenty-four volumes, including "eight French books, severall pamphlets, new bookes & smalle writings"; among these was a copy of Livy, a history of Turkey, a history of the Netherlands and several other histories, with the rest religious works. A catalogue of the books owned by the Reverend Michael Wigglesworth, made October 22, 1705, gave ninety titles. These were mainly religious books, although among them were editions of Tacitus, Horace, Herodotus and Isocrates, and a few medical and mathematical works. The collections of the Reverend Samuel Eaton of New Haven, of Governor John Winthrop of the Connecticut Colony, of the Reverend Peter Bulkley of Concord, Mass., of Michael Perry, a Boston Bookseller, of the Reverend Ralph Partridge of Duxbury, Mass., of Governor William Bradford and Governor Thomas Prince of the Plymouth Colony, and several others were of distinction for their times.

As in Virginia so in Massachusetts, the earliest literature was for a time mainly historical. Two

famous histories belong to this period, Governor William Bradford's *History of Plimouth Plantation*, written in 1620-1646 (but not published until 1855) and Governor John Winthrop's *Journal or History of New England*, written in 1630-1646 (but not published entire until 1826). These two works are the most important original sources for the history of the settlement of New England, but only second in interest and value are *Mourt's Relation* (1622), probably written by Governor Bradford and Edward Winslow; William Wood's *New England's Prospect* (1604); Edward Johnson's *Wonder-Working Providence of Sion's Saviour in New England* (1645); and Nathaniel Morton's *New England's Memorial* (1669). All these works, valuable as records and reflecting the stern devotion to duty and the religious fervor of the writers, have been fittingly characterized as "very devout and very personal, fragmentary in form, usually uncouth in style, but almost always sternly direct and sometimes unwittingly memorable in phrasing."* In later days, some of New England's most famous men of letters, Longfellow, Hawthorne, and Whittier for example, found subjects for their pens in the tales of these old records.

But the chief literary product of

New England in the first half or more of its first century consisted of sermons and tracts in controversial theology by such eminent divines of the period as John Cotton, Thomas Shepard, John Norton, Peter Bulkley, and Thomas Hooker. These treatises never rose to the level of genuine literature. They were heavy, dry and dogmatic, but they were foreible in thought, generally well-written, clear and strong in expression, and informed by sound learning. They reflected not only the consuming theology of the writers, but as well the intense religious feeling of the Puritan commonwealths. Nor did the preëminence of the theological writers cease until well after the close of the century. In the second and subsequent generations the record included such notable names as Increase Mather, Cotton Mather, Michael Wigglesworth, John Eliot, and others.

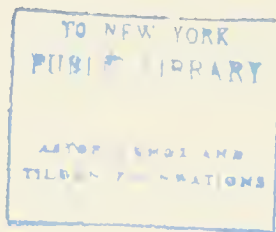
Among the works of Increase Mather, the most learned divine of his generation in New England, and president of Harvard College, was *An Essay for the Recording of Illustrious Providences*. Cotton Mather was in his time the preëminent representative of the powerful theocracy that held New England under its control for more than a century. He came to this distinction by right of inheritance from his father, Increase Mather, and from his grandfathers, Richard Mather and John Cotton. To this inheritance of clerical aris-

* Barrett Wendell and Chester N. Greenough, *A History of Literature in America*, p. 35 (New York, 1907).



1. COTTON MATHER.
3. JOHN COTTON.
5. JONATHAN EDWARDS.

2. INCREASE MATHER.
4. SAMUEL SEWALL.
6. FRANCIS HOPKINSON.



toeracy and power he added personally scholarly attainments, a surpassing diligence in study and in work, an absorbing religious fervor and a domineering spirit that was often more militant than Christian; these qualities placed him and held him in a position where he was easily both in religious and in civil life one of the most notable figures and most influential personages in the Boston of his generation. Mather published during his life nearly 400 works. Of these the most important was the *Magnalia Christi Americana* which was written in the latter part of the century but was not published until 1702. It is an ecclesiastical history of New England from 1620 to 1698 and is a fountain of information concerning the lives and thoughts of the people of that century. Another notable work of Mather's was *Wonders of the Invisible World*, in which is given a detailed account of the Salem witchcraft outbreak. He was also versed in science and left an unpublished treatise on medicine and an unpublished commentary on the Bible, *Biblia Americana*.

In 1640 the *Bay Psalm Book* was produced under the supervision of Richard Mather, Thomas Welch and John Eliot, a metrical version of the psalms that, judged from the poetical point of view, did not rise above the level of mere doggerel, although it became a famous book in England as well as in America. Nor was Michael Wigglesworth's *Day of Doom, or A*

Poetical Description of the Great and Last Judgment (1622) worthy of higher commendation. In the verses of Mrs. Anna Bradstreet, a sister of the famous Joseph Dudley, governor of Massachusetts and chief justice of New York, there was an approach to genuine poetic quality. Her *Several Poems Compiled with great variety of Wit and Learning, full of Delight* (1622) was the nearest approach to poetry that the century offered in America, save the translation of Ovid's *Metamorphoses* by George Sandys in Virginia. And we must not overlook the gracious Chief Justice Samuel Sewall whose *Diary*, kept from 1673 to 1729, linked the two centuries and has won for him in later time the title of the New England Pepys. Sewall was one of the justices who presided at the witchcraft trials in Salem, and for that offence he afterward openly confessed remorse. He wrote one of the first protests against African slavery in the tract *The Selling of Joseph* (1700), and a mystical work, *Phænomena Quaedam Apocalyptica*.

During the first half of the next century there was evidence of a growing change in the intellectual activity of New England. The purely religious topic, while yet in the ascendancy, was gradually giving away to political, civic, and miscellaneous subjects. And also in the middle colonies, writers were heard here and there who challenged the literary supremacy of Boston. The

power of the Mather theocracy had well-nigh departed, and the most important religious writing of the period was that of Jonathan Edwards, whose sermons — *Sinners in the Hands of An Angry God* (1741), *Men Naturally God's Enemies*, *The Final Judgment*, and others, with his great metaphysical treatise *Inquiry into the Freedom of the Will* (1754) — were powerful expositions of a severe Calvinistic theology.

Contemporary with Edwards was Benjamin Franklin, who, although not a great writer, was really the first man of letters that the colonies had produced, as he was also the first to receive recognition as such. His most popular writings were his *Autobiography* and *Poor Richard's Almanac*. The former belongs to the Revolutionary period, having been begun in 1771. The latter was first issued in 1732 and was continued for 25 years, having an annual circulation of ten thousand. Also from Philadelphia in this period were George Webb's poem *Bachelor's Hall*, and James Logan's *Cato's Moral Distichs Englished in Couplets*, now scarcely remembered by antiquarians.

Literary composition among the Dutch in New Netherland was confined closely to public papers and descriptive accounts of the country. Among such productions were the *Remonstrance of New Netherland*, sent to the States-General of the United Netherlands, written by

Adriaen Van der Donck for the Board of Nine Men; Cornelis Van Tienhoven's *Information in Regard to Taking up Land in New Netherland*; Adriaen Van der Donck's *Description of New Netherland*; Martin Cregier's *Journal of the Esopus War* and Nicacius De Sille's *History of the First Beginning of New Utrecht*. Three poets there were. Jacob Steendam wrote a *Complaint of New Amsterdam* (1659), to move Holland to more active interest in the province; and the *Praise of New Netherland* (1661) and *Spurring Verses* (1662). Nicacius De Sille wrote into his town records of New Utrecht three short poems. Dominie Henricks Selyn composed, some in Latin and some in Greek, about two hundred poems, including a long effort in verse on the Esopus wars with the Indians.

In 1638, Stephen Daye, an apprentice printer of London, arrived in Boston with a printing press and type and at once set up a printing office in Cambridge under the control of Harvard College. This was the first press in any of the American colonies and it achieved distinction for the good character of its work as well as by reason of its priority. In 1641 Daye brought out the third product of his press, *The Whole Booke of Psalms Faithfully Translated into English Metre*; the celebrated *Bay Psalm Book*, as it is best known, the first book printed in America and the first product of

American scholars, a work immediately accepted not only in the American colonies but in England and Scotland as well, being reprinted in many editions in both countries. Following Daye at the head of the Cambridge press came Samuel Green in 1648 or 1649. He was the master-printer of his generation in America, and his work won recognition in the old world until, as Isaiah Thomas says: "the press of Harvard College, in Cambridge, Mass., was for a time as celebrated as the presses of the Universities of Oxford and Cambridge in England."* The printing of the Bible in the Indian language was a work which Green began in 1666, and in the completion of this he was assisted by Marmaduke Johnson, who was sent from London for the purpose by The Corporation in England for Propagating the Gospel among the Indians in New England, and was thus the third printer in the colony. For sixty years a press was maintained in Cambridge and during nearly fifty of those years Green was its manager. He founded a family of printers, his descendants for several generations following in his footsteps in Massachusetts and Connecticut. In ensuing years the prominent printers of Massachusetts were Bartholomew Green, John Foster, James Glen, Samuel Green, 2d, Richard Pierce, John Allen, Benjamin Harris, Timothy Green, and James

Printer, all of the Seventeenth century.

The first printers established in the several colonies were:

Stephen Daye, Cambridge, Mass.....	1639
William Bradford, Philadelphia, Pa.....	1685
William Bradford, New York City.....	1693
Thomas Short, New London, Conn.....	1709
William Parks, Annapolis, Md.....	1726
James Franklin, Newport, R. I.....	1727
Williams Parks, Williamsburgh, Va.....	1730
Eleazer Phillips, Jr., Charleston, S. C....	1732
James Davis, Newbern, N. C.....	1751
James Parker, Woodbridge, N. J.....	1755
Daniel Forote, Portsmouth, N. H.....	1756
James Adams, Wilmington, Del.....	1761
James Johnston, Savannah, Ga.....	1762

The first attempt to establish a newspaper in any of the English speaking colonies of America was made with the appearance of *Public Occurrences* in Boston, September 25, 1690. There was no second issue as further publication was interdicted by the government. A second and more successful attempt was made in 1704, when, in April of that year, *The Boston News-Letter* came out with John Campbell, postmaster of Boston, as publisher and editor and Benjamin Green, printer. Until 1719 this was the only American newspaper, but in that year *The Boston Gazette* was started, and in Philadelphia at the same time Andrew Bradford's *The American Weekly Mercury*. William Bradford started a printing press in Philadelphia before 1690, but in 1692 he removed to New York and set up the first press in that colony. The first New York newspaper was *The New York Gazette* in 1725; the first

* *History of Printing*, vol. i., p. 54.

in the Carolinas, at Charleston in 1731; the first in Rhode Island, the *Rhode Island Gazette* in 1732; the first in Virginia at Williamsburgh in 1736. In the first part of the century, Benjamin Franklin, who had learned the printer's and editor's art in the office of his brother's Boston newspaper, *The New England Chronicle*, was the leading printer of Philadelphia, and his *Pennsylvania Gazette* was one of the most powerful defenders of freedom of thought and speech in that stirring period.

In 1740 there were eleven newspapers on the American continent, five in Boston, three in Pennsylvania and one each in New York, South Carolina and Virginia. Immediately prior to the Revolution there were in all the colonies forty newspapers. Sixty had been started, but several had ceased publication. New Jersey was the only colony without a newspaper.

Coming to the closing years of the colonial period, after 1750, we find that a large part of the public utterances of the time were in the form of oratory or journalism rather than book literature. The all-absorbing subject of thought was the relation of the colonies to the mother country. Professor Tyler has divided the literature of this period into nine classes: correspondence, state papers, oral addresses, political essays, political satires in verse, lyric poetry, minor literary facetial, drama, and

prose narratives of experience.* Some of this appeared in books and pamphlets and much more in newspapers and magazines. The political essays and orations of James Otis, John Dickinson, John Adams, John Hancock, Samuel Adams, Josiah Quincy, Joseph Warren, Benjamin Franklin and Thomas Paine were easily foremost, in literary character and in power, of the written works of the periods. One must not overlook Governor Thomas Hutchinson of Massachusetts, whose *History of the Colony of Massachusetts Bay* (1760) and *Brief State of the Claim of the Colonies* (1764) were among the most scholarly contributions to the historical literature of that generation. And John Woolman, the Quaker preacher of New Jersey, with his *Journal of John Woolman's Life and Travels*, *Some Considerations on the Keeping of Negroes* and other works, won more than transitory fame.

Among the more purely political writers was James Otis, who in 1764 published a famous pamphlet: *The Rights of the British Colonies Asserted and Proved*, and in 1765 his equally famous *Considerations on Behalf of the Colonies, in a Letter to a Noble Lord*. John Dickinson is best known by his *Letters from a Farmer in Pennsylvania to the Inhabitants of the British Colonies*

* Tyler, *Literary History of the American Revolution*, vol. i., pp. 9-29.

(1767), which were originally printed in a newspaper, and then in pamphlet form went through thirty editions in six months. Josiah Quincy's *Observations on the Boston Post Bill* and many other essays and speeches; *Circular Letter to Each Colonial Legislature* (1768) by Samuel Adams and James Otis; the speeches of Patrick Henry, John Randolph, Thomas Jefferson and scores of other patriots; Thomas Paine's *Common Sense* (1776) and his series of political essays published from time to time under the title *The Crisis*: these are merely indicative of the volume and the character of the admirable prose writing of the period. Nor was poetry entirely neglected. Francis Hopkinson of Philadelphia wrote much prose and one poem that attained to very distinct popularity — *The Battle of the Kegs* (1778), a satire upon the British Army. Jonathan Odell of New Jersey, a Loyalist, satirized the revolutionists in *The Work of Congress*, *The Feu de Joie*, and *The American Times*, all published in 1779–1780. John Trumbull in 1772 wrote the *Progress of Dulness*, a satire on clerical education, and between 1774 and 1782, a mock epic *McFingal*, satirizing the Tories of the day.

The output of the colonial presses of the Seventeenth century was 902 titles including three attempted newspapers, books, pamphlets, broadsides, almanacs, sermons and so on. In the

Eighteenth century prior to 1765 there were 8,988 titles. Between 1765 and 1779 there were 15,275, emphasizing the tremendous productivity of the Revolutionary period. From 1779 to 1785, 3,271 titles were added making a grand total of 18,546.* In this enumeration each newspaper is entered once for each year.†

* Charles Evans, *American Bibliography* (6 vols., Chicago, 1903–1905).

† C. F. Richardson, *American Literature* (2 vols., New York, 1887); Moses Coit Tyler, *A History of American Literature During the Colonial Time* (2 vols., New York, 1897); Moses Coit Tyler, *The Literary History of the American Revolution, 1763–1783* (2 vols., New York, 1897); S. L. Whitecomb, *Chronological Outlines of American Literature* (New York, 1894); Barrett Wendell, *A Literary History of America* (New York, 1901); Barrett Wendell and Chester N. Greenough, *A History of Literature in America* (New York, 1907); Edwin M. Bacon and Horace Lyman Weeks, *An Historical Digest of the Provincial Press, 1692–1783*, vol. i. (Boston, 1911); John Nichol, *American Literature* (Edinburgh, 1882); Isaiah Thomas, *A History of Printing in America, with a Biography of Printers, and an Account of Newspapers* (Worcester, Mass., 1810), also in *Transactions and Collections of the American Antiquarian Society*, vols. v. and vi. (Worcester, Mass., 1874); Justin Winsor (ed.), *The Memorial History of Suffolk, Mass.*, vols. i., ii., iii. (Boston, 1881); Andrew McFarland Davis, *The Cambridge Press, in Proceedings of the American Antiquarian Society* (Worcester, Mass., 1888); Charles Evans, *A Chronological Dictionary of all Books, Pamphlets and Periodical Publications printed in the United States of America from the Genesis of Printing in 1639 down to and including the year 1820* (6 vols., Chicago, 1903–1904); Robert F. Roden, *The Cambridge Press, 1638–1692, A History of the First Printing Press Established in English America, Together with a Bibliographical List of the Issues of the Press* (New York, 1905); W. P. Trent, *A History of American Literature* (New York, 1903); P. K. Foley, *American Authors, a Bibliography of First and Notable Editions* (Boston, 1897).

Early American Art.

When the fact is considered that England herself produced no artist of the first rank before the middle of the Eighteenth century, it is not surprising that there should have been no noteworthy development of art in the Colonies prior to that date. That wonderful artistic florescence produced by the Renaissance seems to have spent its impulse on the continent of Europe, the spirit of the age finding its expression in England in the drama, poetry, and other literary forms. In the New World, the first drawings other than the crude hieroglyphs of the Indian were probably made by the French explorers, some of whom were possessed of considerable artistic talent and occupied their leisure hours in making sketches of the country traversed, and the vegetable and animal life found therein. The earliest of these was probably Jaques le Moyne de Morgues, who was one of the few survivors of a Huguenot colony established by France at the mouth of St. John's River, Florida, which was destroyed by the Spanish forces in 1565. Le Moyne reached France after experiencing dreadful perils and privations, and published an account of his adventures in 1591. This was illustrated by copper-plate engravings made from his own drawings. Champlain, the explorer of Canada, was also gifted with his pencil, his journal containing many sketches of places visited by him.

The stormy days that marked the winning of the New World for the English colonists were not auspicious for art. The times demanded workers and fighters, not painters and poetasters; there were already too many non-producers, particularly in Virginia, who did not even have the excuse of art to justify their sloth. During the later colonial period when the colonists had reclaimed the fertile lands from the forest and had built their spacious and comfortable manor houses, a demand for paintings arose; mainly family portraits. As there were few native artists of any skill, the majority of these were painted by English painters who were sought out by the colonists during visits to the Mother Country. Yet these in most cases were not from the hands of native-born Englishmen, for the most successful artists in London, from the Restoration to the middle of the Eighteenth century, were immigrants from France, Germany, or the Netherlands. Hence many of the old Virginia and Maryland portraits are found to bear the signatures of Lely, Kneller, Van der Gucht and Gravelot.

The New England Puritans, it seems, were constitutionally opposed to paintings, indeed, to art of any sort, banishing all music, even, from their lives save the intoning of psalms. Nevertheless the earliest reference to any endeavor toward the development of an indigenous art is found in the writings of one of the high-priests of Puritanism, Cotton Mather. Thus

we read in his *Magnalia* that there was a "limner" in Massachusetts as early as 1670. Examples of portrait engraving of Mather's time have also come down; one of them a crude plate of Richard Mather, engraved by John Foster of Boston in 1670. A mezzotint of Cotton Mather was made by Peter Pelham, the step-father of J. S. Copley, and a copper plate of Increase Mather was engraved by Thomas Emmes in 1701.

The first painter to open a studio, so far as we know, of whom we have any record, was John Watson, a native of Scotland, who came to America in 1715, setting up a studio at Perth Amboy, and we have the names of John Greenwood, Jonathan Blackburn, Peter Cooper, Robert Feke, and Lawrence Kilburn, who are said to have painted pictures during the early part of the Eighteenth century. It is probable, however, that their work was of very mediocre quality, and that a good share of their profits came from painting tavern signs and carriage doors. John Smibert, who accompanied Bishop Berkeley, the famous philosopher and divine, on his memorable journey to New England, was therefore probably the first painter of decided talent to establish himself in the New World.

With the advent, however, of John Singleton Copley (1737-1815) and Benjamin West (1738-1820), the history of early American art ceases to be a matter of speculation and becomes a realized fact. With these

men it may truthfully be said to have its beginning. Almost contemporaneous in point of time, with careers marked by many similarities, yet in important details their lives were quite dissimilar. Both were profoundly influenced by the isolation of the American artist, and by the crudeness of the life into which they were born. In the case of West this resulted in expatriation and establishment in London, where he attained a position of great influence and distinction. He is thus the first of the long list of American painters who have fled from their native land to find appreciation and a livelihood which they thought unattainable at home. In the case of West, however, it did not mean a change of citizenship, for the Colonies had not yet severed their relations with Great Britain; furthermore the change was made at such an early period in his life that it is doubtful whether he can be claimed as an American artist at all. He rapidly attained distinction in his adopted home, was one of the founders of the Royal Academy, and succeeded Sir Joshua Reynolds as its president in 1792. West was an epical painter, composing vast canvases based on historical and sacred themes. These have somewhat lost their interest to the student of art, yet they are possessed of unusual power and evidence an imagination and a technical ability of first rank. Furthermore, his rise from poverty and obscurity to the crown of success proved a great

stimulus and encouragement to those young artists who were struggling to create a genuine school of English art. West's most widely known paintings are "The Death of General Wolfe," "Battle of the Hague," and "Penn's Treaty with the Indians."

Copley also went to England, but unlike West did not leave his own country until he had established a reputation there as a painter of unusual ability. He was very precocious and, having received both encouragement and instruction from his step-father, Peter Pelham, the engraver, he had obtained recognition as a skilful painter at the early age of seventeen. The success of West in England tempted him to follow his example, but he resisted the desire until his thirty-seventh year, at which time (1774) he accepted the urgent invitation of the former to visit him in London. His intention was to remain there only a short time, but his reception was so cordial and his success so marked that his proposed stay of a few months lengthened into years — indeed, until his death. It thus happened that he was absent from America during the thrilling events that marked the breaking of the ties between the Colonies and the Mother Country. Copley attempted many ambitious and elaborate compositions, but his portraits are of the greatest interest to us, as by them we are made acquainted with the men and women of the later Colonial era.

Charles Wilson Peale (1741-1829)

was a painter of considerable merit, but his versatility prevented him from developing his powers to the utmost in any particular line. It was thus left to John Trumbull (1756-1843) and Gilbert Stuart (1755-1828) to carry on the tradition of Copley and West in America, and give in the truest sense pictorial expression to the spirit of '76. Trumbull was not an artist of the first rank, but he was in love with his work and was fired with a passionate ardor for the Revolutionary cause. This forms the theme of many of his pictures, among which "The Battle of Bunker Hill" is perhaps the most familiar. He also painted, late in life, four of the great historical canvases in the rotunda of the National Capitol.*

While Trumbull was thus engaged in depicting the stirring scenes of the Revolution, his greater contemporary, Gilbert Stuart, was making immortal with his brush the faces and forms of the heroic men who brought that great work to its successful conclusion. Stuart stands apart from the painters of his time. Although he takes his place — a distinguished one, be it said — among that remarkable group of portrait painters of the Eighteenth century, which comprehended Reynolds, Romney, Lawrence, Gainsborough and Hoppner, yet in some

* The Declaration of Independence, The Surrender of Burgoyne, The Surrender of Cornwallis, and The Resignation of Washington.

respects he was far in advance of them, and in the handling of color and his brush-work shows a kinship with the methods of the later Nineteenth century. At an early period in his career he came under the spell of the English school, and for a while was a pupil in the studio of Benjamin West, yet it was but a passing phase in his development. He saw that the sole endeavor of the English portraitists was the expression of mere sensuous beauty, so he flung himself out of it and set to work to teach himself the art of painting as he conceived it. Not that the creed of beauty did not enter into his conception, but to Stuart truth was an element equally desirable. The art that could create a fairy princess out of a light o' love possessed no interest to him, hence his portraits have a power and reality that one seeks in vain for in the canvases of Reynolds and Gainsborough. His wonderful intuitive powers enabled him to perceive the spiritual characteristics of his sitters, which he transferred with amazing skill to his canvas. For this reason he has been recognized as the sole artist of his time to give an adequate portrayal of the features of Washington, whose portraits painted by him constitute a noble memorial to America's greatest statesman.

The definite separation of the Colonies from the Mother Country had a repressive effect upon art, and with the exception of Stuart and Trumbull, only four men attained results worthy

of attention during the first half-century of the nation's life. These were Washington Allston (1779-1843), Thomas Sully (1783-1872), John Vanderlyn (1776-1852), and John Wesley Jarvis (1780-1834). Allston was a native of Charleston, South Carolina, and a poet of considerable ability as well as a painter. He was somewhat of a dilettante, restlessly turning from one art to another, yet he had distinct genius as a painter; and, had his technique been on a plane with his conceptive powers, he would doubtless rank among America's greatest artists. As it is, his canvases are more interesting for what they aspire to, than what they realize. The mystical nature of his themes has caused his pictures to appeal to many students of American art, and of late there has been marked tendency towards an Allston renaissance.

Thomas Sully was the Gilbert Stuart of the early Nineteenth century. During his long life he painted thousands of portraits, which, though not marked by any extraordinary qualities, were of an even excellence. His extant pictures would fill a gallery with the faces of distinguished men and lovely women, among which the famous portrait of Queen Victoria, painted soon after her coronation, would take the first place.

Allston and Vanderlyn were the first artists of America to study in Italy, and both were profoundly influenced by the masters of the Italian

Renaissance. With regard to Allston it was more or less a passing phase, but with Vanderlyn the spell of Raphael, Titian, and Correggio colored the whole of his art. His greatest painting, the "Ariadne of Naxos," though strongly reminiscent of Titian's sleeping Venuses, nevertheless remains one of the most exquisite examples of the nude painted by an American artist.

Of this group Jarvis conformed more nearly perhaps to the popular conception of the artist for he was essentially a Bohemian, with a life marked by the vicissitudes and vagaries generally experienced by people of that temperament. He was the nephew and namesake of the founder of Methodism, but had little in common with his distinguished relative, save a vigorous mind and a magnetic personality. He was brought from England by his father at the age of five, and though English-born never came under the influence of the English painters of his time. He was self-taught, and in the

beginning painted many hopeless daubs, but his enthusiasm in due time conquered his difficulties, and he became, if not a great painter, at least a skilful and popular one. He made more money than any artist of the day, but he spent it lavishly, and died in Boston at the age of fifty-four, wrecked both physically and financially by his improvident mode of life.

It is thus evident that the early period of American art did not lack striking figures, a few of whom were men of real genius. In view of the isolation and the lack of appreciation that the painter had to contend with, the marvel is that anything at all worthy was produced. The necessity for making a livelihood forced the majority of them to become portrait painters, but what has proved, perhaps, a loss to art has been a gain to history, for on their canvases the men who molded our nation out of a disorganized group of petty sovereignties, stand faithfully before us, possessed of such immortal existence as art can give.

SERIES EIGHT

LECTURES TWENTY-SIX AND TWENTY-SEVEN (Part 1)

The Federalist System: Development of Democracy, 1789—1801

- 26. Beginnings of Government and Political Parties
- 27. Foreign Relations and Internal Affairs (Part 1)

THE UNITED STATES

CHAPTER I.

1789.

ORGANIZATION OF FEDERAL GOVERNMENT.

Washington the country's choice for President — His reluctance to accept the office — Election of members to Congress — The electoral vote — Washington's unanimous election — The election of Adams to the Vice-Presidency — Washington's journey to New York — His inauguration — Congress organized for business — Dispute as to Washington's title — The inaugural address — Governmental departments organized — Salaries of the officials — Debate on acts establishing departments — Hamilton's remarks in *The Federalist* — Judiciary appointments — Amendments to the Constitution — The problems confronting Washington.

THE great experiment was at last on trial. After long and earnest discussion, as we have seen, the Constitution had been adopted, though its adoption was received with great doubt and apprehension in various parts of the country. Many thought that its ultimate success was extremely problematic, while others disliked its aim and provisions, and had determined to oppose it in every way possible. But, as eleven of the States had adopted it, a trial of its merits or demerits was to be made, notwithstanding the misgivings and even the ill-wishes of its opponents. What little remained of the old Congress, passed out of existence quietly. After the passage of the Ordinance of 1787, it had slowly sunk into supineness, feeling, no doubt, that nothing of importance could be done by it

until the outcome of the Constitutional Convention was definitely known. In 1788, when the adoption of the Constitution became certain, the members of the old Congress betook themselves to their homes, there to assist in the organization of the new government.* On July 2, 1788, however, before the members departed, the President of Congress rose in his seat, and, after announcing that nine States had ratified the Constitution, said that Congress should take the steps necessary to put the new government into operation. On Septem-

* The last real meeting of the old Congress, with nine States present, took place October 10, 1788. Thenceforward the attendance gradually dwindled, four States being represented October 15, two October 16, and individual delegates attending "occasionally" until November 1, when the entries in the journal stop. Efforts to secure a meeting of the "Committee of States" were utterly unavailing. See Johnston, in Winsor, *Narrative and Critical History*, vol. vii., p. 267.

ber 13, 1788, Congress passed a resolution that on the first Wednesday in January, 1789, Presidential electors be chosen in the various States, that on the first Wednesday in February these electors should vote for President and Vice-President, and that on the first Wednesday in March the new Congress should assemble at New York.*

While there had been some doubt as to the successful operation of the new government, none existed as to the man who should be placed at its head and under whom the great experiment should be tested.† That man was George Washington. He had often expressed his pleasure at being able to rest from his arduous labors during the war, and thought that some one else should be called upon to shoulder the burdens of the Presidency; but in this present crisis it was thought that his services were imperatively necessary to insure the success of the new Constitution. In many ways Washington had been informed of this public sentiment, having received numerous letters from friends, correspondents, and public men all over the country, all urgently entreating him to accept the position, should the electors choose him to fill

it.* But he was reluctant to enter again upon public life.† In a letter to Hamilton, he says:

"If I am not grossly deceived in myself, I should unfeignedly rejoice, in case the electors, by giving their votes to some other person, would save me from the dreadful dilemma of being forced to accept or refuse. If that may not be, I am in the next place, earnestly desirous of searching out the truth, and of knowing whether there does not exist a probability that the government would just as happily and effectually be carried into execution, without my aid, as with it. I am truly solicitous to obtain all the previous information which the circumstances will afford, and to determine, (when the determination can no longer be postponed,) according to the principles of right reason, and the dictates of a clear conscience, without too great a reference to the unforeseen consequences which may affect my person or reputation. Until that period, I may fairly hold myself open to conviction, though I allow your sentiments to have weight in them; and I shall not pass by your arguments, without giving them as dispassionate a consideration as I can possibly bestow upon them.

"In taking a survey of the subject, in whatever point of light I have been able to place it, I will not suppress the acknowledgment, my dear sir, that I have always felt a kind of gloom upon my mind, as often as I have been taught to expect I might, and, perhaps, must be called upon ere long to make the decision. You will, I am well assured, believe the assertion, though I have little expectation it would gain credit from those who are less acquainted with me, that if I should receive the appointment, and should be prevailed upon to accept, the acceptance would be attended with more difficulty and reluctance, than I ever experienced before. It would be, however, with a fixed and sole determination of lending whatever assistance might be in my power to promote the public weal, in hopes that at a convenient and early period, my services might be dispensed with; and that I might be permitted once more to retire, to pass an unclouded evening, after the stormy day of life, in the bosom of domestic tranquillity."

* Edward Stanwood, *History of Presidential Elections*, p. 8; McMaster, *With the Fathers*, pp. 150-152.

† Curtis, *Constitutional History*, vol. ii., p. 95. Curtis reviews the necessity of organic laws to supply the machinery of the new government, the mode of choosing the President, his functions, and the effect of the nominating convention on the electoral system (chap. iii.).

* Sparks, *Life of Washington*, p. 405.

† J. S. Bassett, *The Federalist System*, p. 6. As to the causes which produced this hesitation, see Curtis, *Constitutional History*, vol. ii., pp. 127-141.

In a letter to Lafayette, he says:

"Your sentiments, indeed, coincide much more nearly with those of my other friends, than with my own feelings. In truth, my difficulties increase and magnify, as I draw towards the period, when, according to the common belief, it will be necessary for me to give a definitive answer in one way or other. Should circumstances render it in a manner inevitably necessary to be in the affirmative, be assured, my dear sir, I shall assume the task with the most unfeigned reluctance, and with a real diffidence, for which I shall probably receive no credit from the world. If I know my own heart, nothing short of a conviction of duty, will induce me again to take an active part in public affairs. And in that case, if I can form a plan for my own conduct, my endeavors shall be unremittingly exerted, (even at the hazard of former fame or present popularity,) to extricate my country from the embarrassments in which it is entangled through want of credit, and to establish a general system of policy, which, if pursued, will ensure permanent felicity to the commonwealth. I think I see a path as clear and as direct as a ray of light, which leads to the attainment of that object. Nothing but harmony, honesty, industry, and frugality, are necessary to make us a great and a happy people. Happily the present posture of affairs, and the prevailing disposition of my countrymen, promise to co-operate in establishing those four great and essential pillars of public felicity."

To avoid sectional jealousy, it was felt that a New England man should be chosen Vice-President. It was deemed unwise to put into high office those who had opposed the union, and this eliminated the noted Federalists, Hancock and Samuel Adams.† Hence the choice fell upon John Adams. A sincere patriot and a strong Federalist, he had such an extensive training in world politics as would perfectly fit him for high office, having been con-

nected for many years with the diplomatic service in Europe. Yet, he was somewhat out of sympathy with American democracy; was rather untactful, unable to put himself in another's place, and not especially resourceful. Indeed, he was charged even with being priggish, unsocial, aristocratic, of monarchical tendencies, and inclined to favor "the rich, the well-born, and the capable."* Nevertheless, his integrity and honesty of purpose were never questioned.

As already stated, the first Wednesday in January, 1789, had been fixed as the day on which the election of members of the first Federal Congress was to be held. That important day passed quietly, and before night electors had been chosen by all the ratifying States save New York, which, owing to a quarrel between the Senate and Assembly, made no choice.† She, therefore, cast no vote for the first President, nor was she represented in the upper house of Congress during the first session of that body.‡ Among the members of Congress then chosen were some of the ablest and best men of the country, among them Fisher Ames, James Madison,|| Jonathan Trumbull, Roger

* Adams, *Works*, vol. iv., p. 290. See also Morse, *John Adams*, p. 241 *et seq.*, and for counter opinion, pp. 251-252.

† Stanwood, *History of Presidential Elections*, p. 11.

‡ McMaster, *United States*, vol. i., pp. 525-526.

|| For the manner in which Patrick Henry, as Governor of Virginia, prevented the election of

* Irving, *Life of Washington*, vol. iv., p. 538.

† John Adams, *Works*, vol. i., p. 444; Stanwood, *History of Presidential Elections*, pp. 12-13.

Sherman, Thomas Sumter, Elias Bondinot, Abraham Baldwin, Egbert Benson, Frederick A. Muhlenburg, and others in the House of Representatives; and Oliver Ellsworth, R. H. Lee, Rufus King, Charles Carroll, John Langdon and Robert Morris in the Senate.*

On the first Wednesday in February the electors met in the various States and cast their ballots for the two highest officers of the country, in accordance with the provision of the Constitution. The new Congress was to have assembled on March 4, but bad roads, delays in elections, reprehensible want of punctuality, etc., prevented the opening of the session on that day, when only 8 of the 22 Senators and 13 of the 59 Representatives presented themselves.† Omitting Rhode Island and North Carolina, the number of Representatives in the first House was to be 59, 30 of whom would constitute a quorum. Appeals were sent to the numerous absentees, but not until the end of March were the required 30 members present. Only April 1, therefore, did the House organize. Muhlenburg was chosen Speaker, but as nothing could be done until the Senate had a quorum, a week elapsed before the ballots for Presi-

dent were opened.* On April 6 the ballots were at last counted, and it was found that the 69 ballots had been cast as follows:†

No. of electoral votes.	STATES.										
		G. Washington, Va.	John Adams, Mass.	S. Huntington, Conn.	John Jay, N. Y.	John Hancock, Mass.	R. H. Harrison, Md.	George Clinton, N. Y.	John Rutledge, S. C.	John Milton, Ga.	Jas. Armstrong, Ga.
5	New Hampshire.....	5	5								
10	Massachusetts.....	10	10								
7	Connecticut.....	7	5	2							
6	New Jersey.....	6	1		5						
10	Pennsylvania.....	10	8								
3	Delaware.....	3		3							
6	Maryland.....	6					6				
10	Virginia.....	10	5		1	1		3			
7	South Carolina.....	7				1			6		
5	Georgia.....	5								2	1
69	Total.....	69	34	2	9	4	6	3	6	2	1

* McMaster, vol. i., pp. 533-534; Bassett, *The Federalist System*, pp. 7-9. On the method pursued in the count of the votes, see Curtis, *Constitutional History*, vol. ii., p. 124 *et seq.*

† The votes for President will be found in Benton, *Abridgment of Debates*, vol. i., p. 10; the *American Almanac*, 1860, p. 198; Lalor's *Cyclopædia of Political Science*, vol. ii., p. 53, vol. iii., p. 1001, and *passim*. See also Bancroft, vol. vi., pp. 467-469; Schouler, *United States*, vol. i., pp. 81-82, 532; *The Presidential Counts: A Complete Official Record of the Proceedings of Congress at the Counting of the Electoral Votes in all the Elections of President and Vice-President of the United States; together with all Congressional Debates Incident Thereto, or to Proposed Legislation upon that Subject. With an Analytical Introduction* (New York, 1877); M. W. Cluskey, *Political Text-Book*; E. G. Tileston, *Handbook of the Administrations of the United States* (Boston, 1871); M. C. Spaulding, *Handbook of Statistics of the United States* (1789-), a *Record of Administrations and Events* (New York, 1874); E. W. Gilliam, *Presidential Elections Historically Considered*, in *Magazine of American History*, vol. xiv., p. 1897; *Early Presidents*, in *ibid* (February, 1884), and *Unsuccessful Candidates for the Presidency*, in *ibid* (February, 1884), and *Unsuccessful Candidates for the Presidency*, in *ibid* (November, 1884). See also the articles on *Causus System* and *Nominating Conventions* in Lalor, *Cyclopædia of Political Science*, the first, by F. W. Whitridge, being

Madison to the Senate, see Wirt, *Life of Patrick Henry*, p. 316; W. W. Henry, *Life of Patrick Henry*, vol. iii., p. 425 *et seq.*; Hunt, *Life of Madison*, chap. xvii.

* Oberholtzer, *Life of Morris*, p. 229.

† Johnson, in Winsor, *Narrative and Critical History*, vol. vii., p. 267.

Although Adams did not receive a majority of the whole, he was designated, "after the choice of the President, the person having the greatest number of votes of the electors," and thus he became Vice-President.* Official announcement of the result was sent to Washington and Adams, and preparations were immediately begun for installing the new government. Some New York merchants contributed \$32,500 so that Federal Hall might be in suitable order for the use to which it was to be put.†

Though Washington knew the result of the election, it was not until April 14 that the secretary of the Con-

published separately, in *Economic Tracts*, no. viii.; G. W. Lawton, *The American Caucus System, its Origin, Purpose and Utility* (1884), in *Questions of the Day*; T. V. Cooper and H. T. Fenton, *American Politics* (Philadelphia, 1882); Orrin Skinner, *Issues of American Politics* (Philadelphia, 1873); Arthur Holmes, *Parties and their Principles: A Manual of Historical and Political Intelligence* (New York, 1859); Walter R. Houghton, *History of American Politics, Embracing a History of the Federal Government and of Political Parties in the Colonies and United States from 1607 to 1882* (Indianapolis, 1883); Joseph Brucker, *Chief Political Parties in the United States, Their History and Teachings* (Milwaukee, 1880); Lewis O. Thompson, *Presidents and their Administrations* (Indianapolis, 1873); William C. Roberts, *Leading Orators of Twenty-Five Campaigns, with a Concise History of Political Parties* (New York, 1884); S. M. Allen, *Old and New Republican Parties, 1789-1880* (Boston, 1880); R. McK. Ormsby, *History of the Whig Party* (Boston, 1860). President Harrison, in *This Country of Ours* (1901) gives an account of the way a President transacts business with the Cabinet officers.

* For details of Hamilton's fight against Adams see McMaster, *United States*, vol. i., pp. 527-530.

† Lamb, *City of New York*, vol. ii., p. 329; McMaster, p. 532.

tinental Congress, Charles Thomson, arrived with the official notification that he had been elected to the Presidency.* The delay was very acceptable to Washington, since sufficient time was allowed him in which to place his private affairs in comparatively good order before assuming the duties of his new office. In a letter to General Knox, he thus expresses himself:

"I feel for those members of the new Congress, who, hitherto, have given an unavailing attendance at the theatre of action. As for myself, the delay may be compared to a reprieve; for in confidence, I tell *you*, (with the *world* it would obtain little credit) that my movements to the chair of government will be accompanied by feelings not unlike those of a culprit who is going to the place of his execution; so unwilling am I in the evening of life, nearly consumed in public cares, to quit a peaceful abode for an ocean of difficulties, without that competency of political skill, abilities, and inclination, which are necessary to manage the helm. I am sensible that I am embarking the voice of the people, and a good name of my own, on this voyage, but what returns will be made for them, Heaven alone can foretell. Integrity and firmness are all I can promise. These, be the voyage long or short, shall never forsake me, although I may be deserted by all men; for of the consolations which are to be derived from these, under any circumstances, the world cannot deprive me."†

Two days after receiving the notification, Washington set out for New York, an entry being made in his Diary that day as follows: "About ten o'clock, I bade adieu to Mount

* For Thomson's speech transmitting the intelligence of his election to Washington and Washington's reply, see James D. Richardson, *A Compilation of the Messages and Papers of the Presidents*, vol. i., pp. 42-43 (hereafter referred to as *Messages and Papers*).

† Irving, *Life of Washington*, vol. iv., pp. 539-540.

Vernon, to private life, and to domestic felicity; and, with a mind oppressed with more anxious and painful sensations than I have words to express, set out for New York in company with Mr. Thomson and Colonel Humphreys, with the best disposition to render service to my country in obedience to its call, but with less hope of answering its expectations." *

The journey to New York was a triumphant procession, everywhere along the route the citizens showing their appreciation of his devotion to their interests. Addresses were presented him by numerous towns, cities, and organizations; parades were held in his honor; and triumphal arches were erected. At New Brunswick the governor of New Jersey joined him, accompanying him to Elizabethtown Point, where he was received by a committee of Congress. On April 23 he embarked from the Point in an elegant barge of thirteen oars, manned by thirteen sailors in white uniforms,† and thence was conducted to New York Bay. The display seems, however, to have given Washington pain rather than pleasure, for in his Diary he makes the following remark:

"The display of boats, which attended and joined on this occasion, some with vocal, and others with instrumental music on board, the decorations of the ships, the roar of cannon, and the loud acclamations of the people, which rent the sky as I passed along the wharves, filled my mind with sensations as painful (contemplating

the reverse of this scene, which may be the case after all my labors to do good) as they were pleasing." *

Upon landing at Murray's Wharf, he was saluted by the artillery and conducted to his residence at the corner of Cherry Street and Franklin Square‡ by the governor of the State and a large body of officers, clergy, foreign ministers, and others. In the evening the whole city was brilliantly illuminated.‡

Congress had promised itself that when Washington took the oath of office there should be a ceremony fitting the occasion.|| April 30 being fixed upon as the day on which the inaugural should take place. Shortly after noon on that day the committee appointed by Congress waited upon Washington, and, after the procession had been formed, the march to Federal Hall was begun. Upon his arrival there, Washington went to the Senate Chamber and thence passed to the balcony in front, where the oath of office was administered by Chancellor Livingston. Turning to the people in the street, the Chancellor said: "Long live George Washington, President of the United States!" §

* Irving, *Life of Washington*, vol. iv., p. 546. Mr. Boudinot, in a letter quoted in *The Republican Court*, pp. 130-134, gives a very interesting and full account of the animated scene exhibited on this occasion in the Bay of New York.

† Schouler, *United States*, vol. i., p. 85.

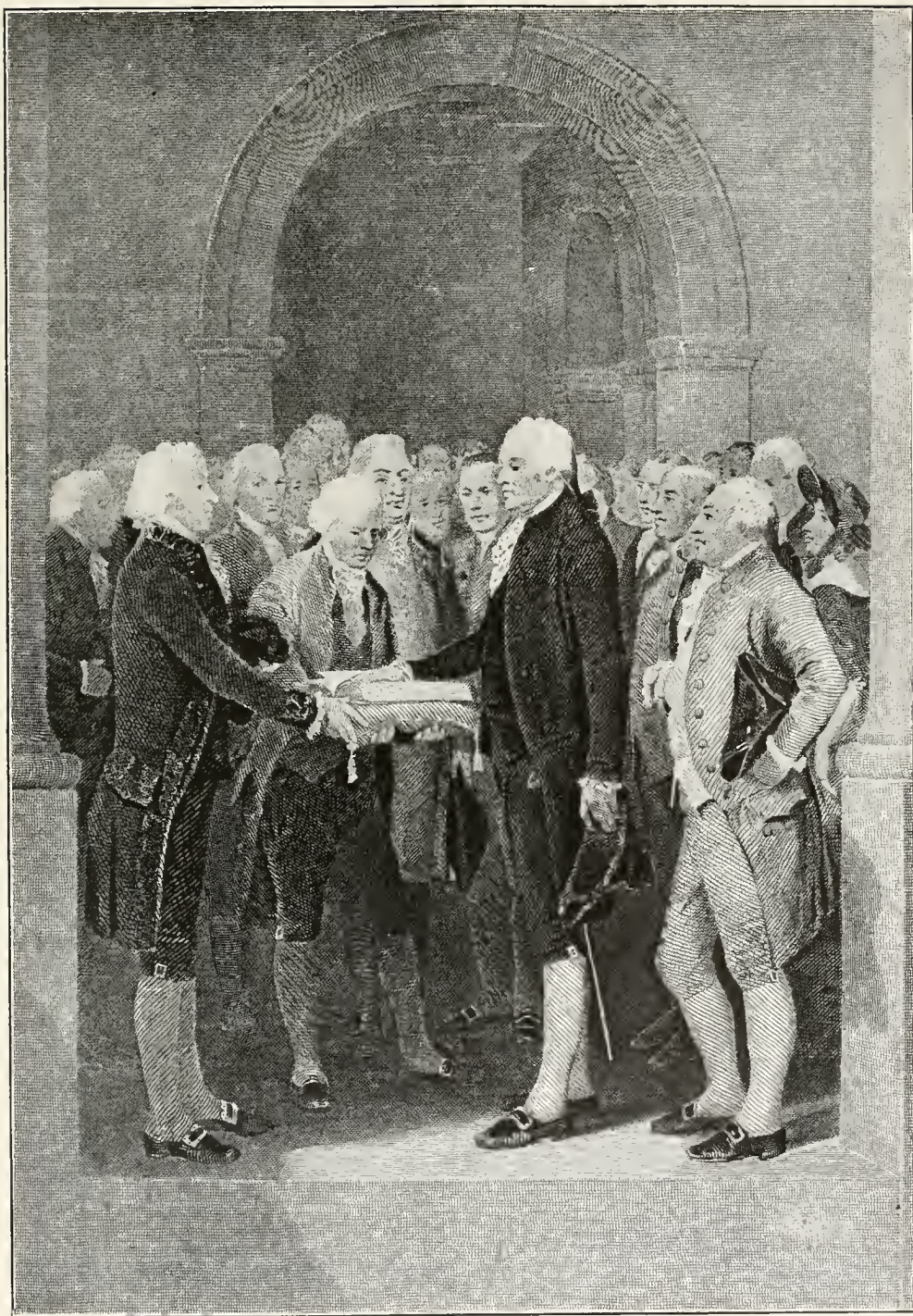
‡ Lamb, *City of New York*, vol. ii., p. 334; McMaster, vol. i., p. 539.

|| For the various proceedings in Congress respecting the inaugural, see Richardson, *Messages and Papers*, vol. i., p. 47 *et seq.*

§ Benton, *Abridgment of Debates*, vol. i., p. 12.

* Sparks, *Life of Washington*, p. 407; Irving, *Life of Washington*, vol. iv., p. 540; Lodge, *George Washington*, vol. ii., pp. 42-43.

† Oberholtzer, *Life of Morris*, p. 233.



Livingston. St. Clair. Otis. Knox. Sherman. Washington. Steuben. Adams.

INAUGURATION OF WASHINGTON.

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Whereupon the air was immediately rent with a wild shout.* After the oath of office had been administered, Washington returned to the Senate Chamber and there delivered his inaugural address.† “It was a very touching scene and quite of the solemn kind. His aspect, grave almost to sadness; his modesty, actually shaking; his voice deep, a little tremulous, and so low as to call for close attention; added to the series of objects presented to the mind and overwhelming it, produced emotions of the most affecting kind upon the members.”‡

This ceremony over, the President and Vice-President, accompanied by the members of Congress and many others, went to St. Paul's Chapel, where prayers were offered by Bishop Samuel Provost according to the usage of the Protestant Episcopal Church.¶ This ended the ceremonies connected with the inauguration. But the people continued their celebrations far into the night, the scene being rendered still more impressive by the gorgeous illuminations.§

Congress then proceeded to organize for business. The Senate chose its president *pro tem*, its secretary, and other officers, and only awaited word

that the lower House had formed, to begin business. The Senate was disposed to look down upon the House, as it considered itself the revising branch of the legislature; and, considering themselves as the State's sole representatives, the Senators at the very outset assumed superior airs and deemed themselves entitled to higher respect and greater remuneration. There was much talk over titles and ceremonies, and at first the proceedings were held behind closed doors.* The House of Representatives chose Frederick A. Muhlenburg, of Pennsylvania, as its Speaker.† While at this time the Speaker possessed no little power, the office did not carry with it the political weight that it attained a few years later. The greater part of the business of the House was transacted in Committee of the Whole, the chairman of which was appointed by the Speaker.‡

A few days after organizing for business, the members became involved in a wrangle as to the proper title by which to address Washington, some thinking “His Highness,” “His Mightiness,” etc., as being the proper forms; but after a long dispute it was decided to address him simply as he is designated in the Constitution.¶ When this point had been

* Lamb, *City of New York*, vol. ii., pp. 336-337; McMaster, vol. i., p. 540; Schouler, *United States*, vol. i., pp. 87-88; McMaster, *With the Fathers*, p. 176.

† See Richardson, *Messages and Papers*, vol. i., pp. 51-54.

‡ Schouler, *United States*, vol. i., p. 88, quoting from Fisher Ames' *Works*, vol. i., 1789.

¶ Sparks, *Life of Washington*, p. 409.

§ Lamb, *City of New York*, vol. ii., p. 338.

* Kerr, *Origin and Development of the United States Senate*, pp. 38, 92; Schouler, *United States*, vol. i., p. 117.

† Benton, *Abridgment of Debates*, vol. i., p. 21; Herbert B. Fuller, *Speakers of the House*, p. 23.

‡ Follett, *Speaker of the House*, p. 137.

¶ See Lodge, *George Washington*, vol. ii., pp. 50-51; Benton, *Abridgment of Debates*, vol. i.,

settled, the Senate and House presented to the President their answers to his inaugural speech.* These answers voiced the sentiments of the entire country, and glowed with expressions of love, veneration and confidence, which seemed to forecast that the session of Congress would be harmonious and the members diligent in the discharge of their public duties.†

Among the matters first considered by Congress was the organization of the various departments of the government. Until this organization was

completed, Washington retained John Jay as Secretary for Foreign Affairs and General Knox as Secretary of War.* The treasury was under the control of a Board of Commissioners. The first dispute arose over the question of salaries to be paid the President, Vice-President, members of Congress, and other governmental officials. Some thought \$70,000 a year should be allowed the President, while others thought \$15,000 or \$20,000 sufficient; after a short debate, the sum of \$25,000 was agreed upon,—and this salary was not raised until Grant had occupied the White House for some time. The Vice-President's salary also provoked a long dispute. His position and duties were inadequately defined, and the question arose as to whether he should be paid by the year or by the day, in accordance with his attendance at the Senate as its presiding officer. Finally it was determined to pay him an annual salary of \$5,000.† The heads of the various departments were allowed \$3,500; the chief justice of the Supreme Court \$4,000; and the associate justices \$3,500.‡ Members of the House were to be paid \$6 per day for every day of attendance at the sessions and were to be allowed mileage between their

pp. 13, 65, 69, 318 *et seq.*; Schouler, *United States*, vol. i., p. 118; William Maclay, *Sketches of Debate in the First Senate of the United States*, p. 38; McMaster, *United States*, vol. i., pp. 540-542; John Adams, *Works*, vol. viii., pp. 511-513; Madison's *Works* (Congress ed.), vol. i., pp. 469, 471; Griswold, *Republican Court*, p. 152; Garland, *Life of Randolph*, vol. i., p. 43; Curtis, *Constitutional History*, vol. ii., pp. 147-151. Jefferson said: "The President's title as proposed by the Senate was the most superlatively ridiculous thing I ever heard of."—Ford's ed. of Jefferson's *Writings*, vol. v., p. 104.

* Richardson, *Messages and Papers*, vol. i., pp. 54-57.

† On entering upon his duties Washington found it imperatively necessary to make certain arrangements in regard to the time of receiving of visits, etc. See Ford's ed. of Washington's *Writings*, vol. xi., pp. 405-408; John Adams, *Works*, vol. viii., pp. 489-493; Schouler, *United States*, vol. i., p. 126 *et seq.* See also the chapter entitled "The Republican Court" in Bassett, *Federalist System*, pp. 150-162. This, which, it would seem, would commend itself as only right and proper, was made a subject of complaint by some of the suspicious and squeamish politicians of the day. For Washington's dignified rebuke of those who ventured to carp at his doings, see Marshall, vol. ii., pp. 144-146; Sparks, pp. 412-413; Lodge, vol. ii., p. 52 *et seq.*; Irving, vol. v., p. 8 *et seq.* See also McMaster, vol. i., pp. 563-565; Parton, *Life of Thomas Jefferson*, pp. 364-370; Sullivan, *Familiar Letters*; Tucker, *Life of Jefferson*, vol. i., p. 312; Morse, *John Adams*, p. 253.

* Brooks, *Life of Knox*, p. 212; Pellew, *John Jay*, p. 262.

† Curtis, *Constitutional History*, vol. ii., pp. 145-147; *Annals of Congress*, 1st Congress, 1st session, vol. ii., p. 2181.

‡ Acts of September 11 (c. 13), 23 (c. 18), 24 (c. 19); *Annals of Congress*, vol. ii., pp. 2176, 2181.

homes and the seat of Congress; and the same rate was fixed for Senators, who were thus paid until March 4, 1795, after which their remuneration was \$7 per day.*

Three departments were then established for conducting the affairs of the government; the foreign office, now known as the Department of State, the Treasury Department, and the War Department.† Under the direction of the Secretary of War came such matters as pertained to the naval affairs of the country. Much excitement was caused by the debate on the acts establishing these departments. According to the Constitution, the President, "by and with the advice and consent of the Senate," possessed the power to appoint the officers in the various departments; but the Constitution was silent as to the person in whom was vested the power of removal. This immediately became a subject of contentions debate. It was said, on the one hand, that if the President could appoint officials only with the advice and consent of the Senate, it was reasonable to suppose that the same condition applied to his removal of officials. On the other

hand, it was believed that, as the President had taken an oath to faithfully execute the laws, it was necessary that he should have the power to remove any official, on what might seem to him good and just grounds, without consulting anyone. But again it was affirmed that this power was of the nature of monarchial prerogative, and, in the hands of an ambitious President, would be especially dangerous; that it would tend to make the cabinet officers servile dependents upon the caprice of the President; and, finally, that it was utterly inconsistent with the principles of a free government. The thought in the minds of those who framed the Constitution was that such power should not be lodged in any single individual.

Those who held the opposite view argued that by dividing the power of removal between the President and the Senate the responsibility for its proper exercise would be destroyed, and the public interests would necessarily suffer. Furthermore, secrecy in such matters was often necessary, and facts regarding officers might come to the President's knowledge requiring the immediate removal of an officer when the Senate was not in session. But if the President should have to wait until the Senate convened, the interests of the country might suffer severely in the meantime. On the other hand, with this power resting solely with the Chief Executive, the interests of the country could not suffer for any great length of time;

* Schouler, *United States*, vol. i., pp. 117-118; *Annals of Congress*, vol. ii., pp. 2179-2181; Benton, *Abridgment of Debates*, vol. i., pp. 116-133; McMaster, vol. i., pp. 542-544.

† The separate acts for each department were passed as follows: State Department, July 27 and September 15, 1789; War Department, August 7, 1789; Treasury Department, September 2, 1789. — Schouler, *United States*, vol. i., pp. 105-106; Bassett, *The Federalist System*, p. 16; *Annals of Congress*, vol. ii., pp. 2132, 2157, 2175, 2177.

for, should the President choose executives unfit for their duties, he would be less likely to secure a reelection to office, since he was held responsible to the government for the conduct of its affairs and the proper execution of its laws. While in case the President should remove an officer for insufficient cause, it would be impossible for him to appoint a successor, because the Senate had the power to refuse a confirmation. Madison, among others, declared that should the President at any time thus wantonly abuse his prerogative, he would make himself liable to impeachment proceedings and removal from his own office.*

Many others in the House agreed with Madison; and though a number took the opposite view of the matter, the question was finally settled in the House (by a majority of 12) by (1) an amendment to the second clause of the bill, clearly implying that the President had the power of removal, and by (2) striking out the entire clause under discussion, thereby leaving the President to exercise the power of removal as a constitutional privilege.† In July the matter came

before the Senate, in connection with a bill establishing the Department of Foreign Affairs. At this time the Senate was equally divided (9 to 9), and the deciding vote was cast by Vice-President John Adams.* Subsequently, on another bill, there was a majority of 2 in favor of the same construction, and later the law was so worded as to imply that the constitutional power already rested in the President, the expression being "that whenever the secretary shall be removed by the President of the United States," etc.† In *The Federalist*, Hamilton says:

"It has been maintained, as one of the advantages to be expected from the co-operation of the Senate, in the business of appointments, that it would contribute to the stability of the administration. The consent of that body would be necessary to *displace*, as well as to *appoint*. A change of the chief magistrate, therefore, would not occasion so vehement or general a revolution in the officers of the government, as might be expected, if he were the sole disposer of offices. When a man, in any situation, had given satisfactory evidence of his fitness for it, a new president would be restrained from attempting a

ideal Association, No. v. (1886); the article *Appointments and Removals* in Lalor, *Cyclopædia of Political Science*, vol. iii., p. 586. See also Mason, *The Veto Power* (1890); and the article in Lalor, vol. iii., p. 1064; Curtis, *Constitutional History*, vol. ii., pp. 143-145.

* John Adams, *Works*, vol. i., pp. 448-450; vol. viii., p. 494.

† See *United States Statutes-at-Large*, vol. i., p. 28, for the act of July 27, 1789. For the organization of the State Department and its work, see Foster, *Century of American Diplomacy*, pp. 103-135; Eugene Schuyler, *American Diplomacy and the Furtherance of Commerce*, chaps. i.-iii. In general see George N. Lamphere, *The United States Government — Its Organization, and Practical Workings* (Philadelphia, 1880); Towle, *History and Analysis of the Constitution*, p. 377; Lossing, in *Harper's Magazine*, vol. xxxviii., p. 319.

* See also his letters on this subject, in Madison's *Works* (Congress ed.), vol. i., pp. 474-475, 476, 477-479, 483-484, 487, 488.

† See *Annals of Congress*, 1st Congress, 1st session, vol. i., pp. 368-397, 455-585, 590-608, 612-615; Benton, *Abridgment of Debates*, vol. i., pp. 85-94, 102-112; Hunt, *Life of Madison*, p. 174 *et seq.*; Hart, *Actual Government*, pp. 282-295; Fish, in *Report of the American Association for 1899*, vol. i., pp. 67-86. In connection with the subject of the power of the President, see Lucy M. Salmon, *History of the Appointing Power of the President*, in *Papers of the American Histor-*

change, in favor of a person more agreeable to him, by the apprehension, that the discountenance of the Senate might frustrate the attempt, and bring discredit upon himself. Those who can best estimate the value of a steady administration, will be most disposed to prize a provision which connects the official existence of public men with the approbation or disapprobation of that body, which, from the greater permanency of its own composition, will, in all probability, be less subject to inconstancy than any other member of the government."

While the House was debating the power of removal, the Senate was engaged in forming the judiciary. Ellsworth was chairman of the committee which prepared the bill establishing the Supreme Court and the Circuit and District Courts. The States were divided into circuits, in each of which one of the Supreme Court justices and the district judge of the State constituted the circuit court, until the regular court was held. This court had original jurisdiction in certain cases, and to it appeal was made from the district court. The Supreme Court was to be composed of a chief justice with five associate justices, and was to hold two sessions annually. In certain cases this court had exclusive jurisdiction and appellate jurisdiction from the circuit courts, and also from the State courts, whenever the validity of treaties or of the laws of the United States was involved.*

* Schouler, *United States*, vol. i., p. 107; *United States Statutes-at-Large*, vol. i., p. 73. See also Thomas M. Cooley, *The Federal Supreme Court — Its Place in the American Constitutional System, in Constitutional History of the United States as seen in the Development of American Law* (Political Science Lectures, University of Michigan, 1889), pp. 29-52.

As the government was now organized, Washington, toward the close of September, made his official appointments.* Thomas Jefferson was appointed to the post of Secretary of State. He was about to return from France, where he had long represented the newly formed government, but did not reach the United States much before the close of the year.† Evidently he did not wish to undertake any further public service at this time, for he had been away from the country a number of years and longed for retirement in which to continue his studies. He said in a letter:

"This appointment, I received with real regret. My wish had been to return to Paris, where I had left my household establishment, as if there myself; and to see the end of the Revolution, which I then thought would be certainly and happily closed in less than a year. I then meant to return home, to withdraw from political life, into which I had been impressed by the circumstances of the times, to sink into the bosom of my family and friends, and devote myself to studies more congenial to my mind. In my answer I expressed these dispositions candidly to the president, and my preference of a return to Paris: but assured him that if it was believed I could be more useful in the administration of the government, I would sacrifice my own inclinations without hesitation, and repair to that destination; this I left to his decision. At Monticello, I received a second letter from the president, expressing his continued wish that I should take my station there, but leaving me still at liberty to continue in my former office, if I could not reconcile myself to that now proposed. This silenced my reluctance, and I accepted the new appointment."

* For the rules which Washington adopted in making appointments to offices, see his letter on the subject, in Sparks, *Life of Washington*, pp. 418-420.

† Lodge, *George Washington*, vol. ii., p. 67; Morse, *Thomas Jefferson*, p. 96.

He did not take office until March, 1790.*

At the head of the Treasury Department Washington placed Alexander Hamilton, because in him the President recognized great ability, particularly in the handling of financial affairs.† At the head of the War Department was General Knox, whose services during the war especially fitted him for this post.‡ Edmund Randolph was chosen Attorney-General for his great reputation as a lawyer and the rank he had attained by his services as governor of Virginia, in the Federal Convention, and in the convention that ratified the Constitution.¶ These men formed Washington's first cabinet. For Chief Justice of the United States, the President's choice fell upon John Jay§ for his well known ability, integrity, patriotism, and high moral character.¶ In appointing him, Washington said: "I have full confidence that the love which you bear to our country, and a

desire to promote the general happiness, will not suffer you to hesitate a moment to bring into action the talents, knowledge, and integrity, which are so necessary to be exercised at the head of that department, which must be considered the keystone of our political fabric."*

During the first session of the First Congress, the attention of the House was called to the numerous amendments to the Constitution which had been suggested by the State conventions when the Constitution was ratified. In all, there was over a hundred such amendments,† but as many were repetitions, not more than fifty or sixty demanded consideration. Marshall says:

"To meet the various ideas expressed by the several States Conventions; to select from the mass of alterations which they had proposed, those which might be adopted without stripping the government of its necessary powers; to condense them into a form and compass which would be acceptable to persons disposed to indulge the caprice, and to adopt the language of their particular States; were labors not easily to be accomplished."

These various amendments, on being introduced by Madison, were referred to a committee. After a long debate in the committee, seventeen were submitted to the House and adopted by a large majority. The Senate, however, reduced the number

* Ford's ed. of *Jefferson's Writings*, vol. v., pp. 139, 140-141, 143, 148, 149, 151; Ford's ed. of *Washington's Writings*, vol. xi., pp. 439-467; Morse, *Thomas Jefferson*, p. 97; Parton, *Life of Thomas Jefferson*, pp. 343-347. Jefferson occupied a house at 57 Maiden Lane; Hamilton lived in Pine Street.

† Lodge, *George Washington*, vol. ii., p. 65; A. S. Bolles, *Financial History of the United States, 1789-1860*, chap. i.; Gibbs, *Administrations of Washington and Adams*, vol. i., p. 28.

‡ Brooks, *Life of Knox*, p. 212; Lodge, *George Washington*, vol. ii., p. 64.

¶ Lodge, *George Washington*, vol. ii., pp. 63-64. See also the various letters regarding this appointment in Conway, *Edmund Randolph*, p. 126 et seq.

§ Pellew, *John Jay*, p. 263.

¶ Schouler, *United States*, vol. i., p. 121.

* Sparks, *Life of Washington*, pp. 417-418.

† Madison says there were 126 suggested amendments, divided among the States as follows: Massachusetts, 9; New Hampshire, 12; New York, 33; Rhode Island, 21; Virginia, 20; North Carolina, 26; South Carolina, 5. Madison's *Works* (Congress ed.), vol. iv., p. 129.

to twelve, which were sent to the various legislatures for approval; and in due time ten were ratified by the constitutional majority of the States.* The two rejected related to the ratio of representation in the House and to the compensation for the members of Congress.†

The chief purport of these amendments was the annexation to the Constitution of a more specific bill of rights. By them were secured to the people freedom of religion, of speech and of the press; the right of petition; the private right to bear arms; immunity from unreasonable search or seizure, arbitrary arrest, the taking of private property without just compensation, and the quartering of soldiers in private houses. Excessive bail, excessive fines, and excessive imprisonment were prohibited; and the right of trial by jury was most positively guaranteed. To the States respectively, "or to the people," were expressly reserved all the powers not delegated to the United States, nor prohibited to the States by the Constitution.

That these harmonizing amendments were needed as an assurance of public faith is manifest not only from

Washington's utterances, but also from the promptness with which the amendments were ratified by the States, for before 1791 ten of the twelve amendments had become part of the fundamental law of the nation. It was here that the Federalists made their first notable error. While the propositions were pending in Congress, they tried in every way to thwart and delay action; "and here was manifested that obliquity of political vision in talented chieftains which marked the Federalist party for division and early ruin."*

When Washington assumed office the affairs of the country were in a poor state. The excitement caused by the discussions over the ratification of the Constitution had not yet wholly subsided. The treasury was completely exhausted, while debts were pressing heavily from all quarters. Adams says:

"The Constitution itself, had been extorted from the grinding necessity of a reluctant nation. The people only of eleven of the thirteen primitive states had sanctioned it by their adoption. A stubborn, unyielding resistance against its adoption, had manifested itself in some of the most powerful states in the Union, and when overpowered by small majorities in their Conventions, had struggled in some instances successfully, to recover their ascendancy, by electing to both Houses of Congress members who had signalized themselves in opposition to the adoption of the Constitution. A sullen, embittered, exasperated spirit was boiling in the bosoms of the defeated, then styled anti-Federal party, whose rallying cry was state rights — state sovereignty — state independence. To this standard, no small number even of the ardent and distinguished patriots of the Revolution, had attached themselves with partial affection. State sovereignty, unlimited state

* Bassett, *Federalist System*, p. 22; Gay, *Life of Madison*, pp. 145-146; *Madison's Works* (Congress ed.), vol. i., p. 497 *et seq.* The text of these amendments will be found in vol. iii., p. 504 of this history. For a discussion of them, see Curtis, *Constitutional History*, vol. ii., pp. 152-166.

† Hunt, *Life of Madison*, pp. 176-177. For the debates on the amendments, see *Annals of Congress*, 1st Congress, 1st session, vol. i., pp. 424-450, 660-665, 703-762, 768-773.

* Schouler, *United States*, vol. i., p. 115.

sovereignty, amenable not to the authority of the Union, but only to the people of the disunited state itself, had, with the left-handed wisdom characteristic of faction, assumed the mask of liberty, pranked herself out in the garb of patriotism, and courted the popular favor in each state, by appeals to their separate independence; affecting to style themselves exclusively *Republicans*, and stigmatizing the Federalists, and even Washington himself, their head, as monarchists and tories. On the other hand, no small number of the Federalists, sickened by the wretched and ignominious failure of the Articles of Confederation to fulfill the promise of the Revolution; provoked at once and discouraged by the violence and rancor of the opposition against their strenuous and toilsome endeavors to raise their country from her state of prostration; chafed and goaded by the misrepresentations of their motives, and the reproaches of their adversaries, and imputing to them in turn, deliberate and settled purposes to dissolve the Union, and resort to anarchy for the repair of ruined fortunes; distrusted even the efficacy of the Constitution itself, and, with a weakened confidence in the virtue of the people, were inclining to the opinion, that the only practicable substitute for it, would be a government of greater energy than that presented by the Convention. There were among them numerous warm and sincere admirers of the British Constitution; disposed to confide rather to the inherent strength of the government, than to the self-evident truths of the Declaration of Independence, for the preservation of the rights of property, and perhaps of persons; and with these discordant feelings and antagonizing opinions, were intermingled on both sides individual interests and ambitions, counteracting each other, as in the conduct and management of human affairs they always have and always will; not without a silent and secret mixture of collateral motives and impulses, from the domestic intercourse of society, for which the legislator is not competent to provide, and the effect of which not intuition itself can foresee." *

Still there were many points of dispute. The times were too near the trying war to have eliminated the old grudges and jealousies, and England was not in a conciliatory mood; while,

on the other hand, many of the Americans, regarding England as this country's natural enemy, were ready to take offence on the slightest provocation and were eager for a chance to retaliate. Up to this time the British government had refused to negotiate a commercial treaty on favorable terms, interposing restrictions on American trade with British possessions very detrimental to the commercial interests of the United States. It was thought also that Great Britain had secretly used her influence to prevent the consummation of a commercial treaty with Portugal. To the secret machinations of the same power was attributed much of the trouble experienced at the hands of the Barbary corsairs. It was believed, moreover, that the British officials in Canada were inciting the Indians along the western borders to make inroads on the American settlements—a belief which caused a constant state of alarm in the West, where the army of the United States was insufficient to maintain order.

The relations with France, however, were most friendly, and there was a general disposition to encourage commercial intercourse with that nation in preference to England. Most of the other European powers, too, were on friendly terms with the United States. A treaty had been concluded with the Emperor of Morocco, but Algiers, Tunis, and Tripoli still continued to plunder American merchantmen and enslave all the unfortunate

* *Jubilee of the Constitution*, pp. 55-57.

captives. Being without a powerful navy, the United States was compelled to purchase immunity by large annual contributions. Spain was still angry over the outcome of the negotiations concerning the navigation of the Mississippi and it was still necessary to keep strict watch of the impetuous Westerners to prevent violations of the treaty.

CHAPTER II.

1789-1793.

COMMERCE: FINANCE: BANKING.

The tariff of 1789 — Tax on negroes proposed — Tonnage duty laid — Tariff revised in 1790 — Hamilton's first report on public credit — Speculation in certificates — Debate on the funding system — Debate on assumption of State debts — Compromise on the seat of government — The plan of assumption — Hamilton's second report on public credit — Excise bill passed — Bank of the United States established — Gambling in bank scrip — Second Congress convenes — Washington's third annual address — Rates of postage determined — Debate on St. Clair's defeat and the bill to increase the army — Hamilton's report on manufactures — Duties on imports increased — Excise duties reduced — Mint established — New coinage system — Internal improvements — Stock gambling and failures — Attempt of Giles to inculcate Hamilton — Other acts of Congress. Appendix to Chapter II. — I. Hamilton's First Report on Public Credit. II. Hamilton's Second Report on Public Credit.

The government now being established, manifestly some system of revenue must be devised to discharge national obligations. The Revolution had left the country overburdened with debts, both State and National. The Confederation had been unable to pay even the interest on its part of the obligations, while many States could do no better. The country, however, had untold natural resources, and the only necessity was someone at the helm who could manipulate these advantageously and place the finances upon a stable basis.

On April 8, shortly after the opening of the first session of Congress, the House went into Committee of the Whole on the state of the Union, and Madison rose to speak of the urgency

of maintaining a full Treasury.* This, he said, could be done only by having a regular revenue, which, to be steady, must rest lightly upon the people; but whatever was done must be done quickly. He proposed the adoption of the impost system of 1783,† and as spring, the season of importation, was rapidly approaching, he recommended that, if the impost as presented by him could not be adopted in its entirety, it should be adopted as a temporary working basis, so that the Treasury would not suffer through failure to tax the importations of the coming season.‡

* Benton, *Abridgment of Debates*, vol. i., pp. 22-23; Schouler, *United States*, vol. i., p. 97.

† Rives, *Life of Madison*, vol. iii., p. 193 *et seq.*

‡ Curtis, *Constitutional History*, vol. ii., p. 168.

Under the Constitution, two sources were available for replenishing the Treasury: customs duties and excise.* The former could be derived from goods and merchandise in bulk or as cargoes, while the latter was obtainable from subdivided goods or merchandise. Among the objections to a Federal excise were espionage, a multiplicity of officers necessary to collect the tax, and the invasion of State rights; yet the method of collecting customs duties was neither costly, burdensome nor cumbersome. Furthermore, it was a part of the commercial system the regulation of which had been confided to the Union. By law, duties could not be levied on exports, but it was expected that a handsome income would be derived by taxing imports.†

When the revenue system of 1783 was enacted into law there were comparatively few manufactures in the country, and for some time thereafter the great quantities of goods imported from Europe rendered our own manufactures almost useless. By the time the new government was inaugurated, however, great changes had taken place. Several causes had united to give impetus to our domestic manufactures, so that in 1789 there were some kinds of manufactures sufficient to supply the consumption of the

whole Union, while others were growing so rapidly that it appeared not unlikely that our own materials could be worked up to a point at which articles made in this country could be exported profitably. Hence it was contended that the question of protection must be met at the threshold of legislation.

Mr. Madison's plan was to lay specific duties, or duties according to quantity, on certain articles, chiefly those which might be termed luxuries (such as spirituous liquors, wines, teas, coffee, sugar, molasses, cocoa, spices and pepper); and an *ad valorem* duty, or a percentage on their actual value, on all other importations.* This plan comprehended also a tax on the tonnage of vessels, the rate to be lower on American vessels built and owned in the United States, and a discrimination was made in favor of such nations as had entered into commercial treaties with the United States.†

Madison's speech was well received and the subject he discussed was immediately taken up. The next day (April 9), Thomas Fitzsimons, of Pennsylvania, moved that a few manufactured articles be added for specific duties,‡ and Hartley, also

* Davis R. Dewey, in his *Financial History of the United States*, pp. 60-74, gives an excellent brief discussion of the financial provisions of the Constitution, with a bibliography.

† Schouler, *United States*, vol. i., p. 97.

* Edward Stanwood, *American Tariff Controversies of the Nineteenth Century*, vol. i., p. 39; Schouler, *United States*, vol. i., p. 97.

† Hunt, *Life of Madison*, pp. 169-170; Bolles, *Financial History*, p. 74.

‡ William Hill, *First Stages of the Tariff Policy of the United States*, in *Publications of the American Economic Association*, vol. viii., no. vi.,

of that State, in supporting Fitzsimons, said that the object was to encourage home manufactures, which had sprung up since 1783 and were now rapidly increasing. He said that it appeared to be

"in the contemplation of some to enter on this business in a limited and partial manner, as it relates to revenue alone; but for my own part I wish to do it on as broad bottom as is at present practicable. * * * If we consult the history of the ancient world we shall see that they have thought proper, for a long time past, to give great encouragement to the establishment of manufactures by laying such partial duties on the importation of foreign goods as to give the home manufactures a considerable advantage in the price when brought to market. * * * I think it both politic and just that the fostering hand of the general government should extend to all those manufactures that will tend to national unity." *

Madison did not object to encouraging home manufactures, for he said:

"I own myself the friend to a very free system of commerce, and hold it as a truth that commercial shackles are generally unjust, oppressive, and impolitic. It is also a truth that if industry and labor are left to take their own course, they will generally be directed to those objects which are most productive, and this in a more certain and direct manner than the wisdom of a most enlightened legislature could point out. Nor do I think that the national interest is more promoted by such restrictions than that the interest of individuals would be promoted by legislative interference directing the particular application of its industry. * * * If my general principle

p. 110. The articles were beer, ale, porter, cider, beef, pork, butter, cheese, candles, soap, cables, cordage, leather, salt, tobacco, snuff, hats, slit and rolled iron, iron castings, nails, unwrought steel, paper, cabinet-ware, thread, boots, shoes, buttons, carriages, certain fruits and spices, and castings. Goodhue suggested that anchors, wool-cards and tinware deserved protection.—Bishop, *History of Manufactures*, vol. ii., p. 17; Benton, *Abridgment of Debates*, vol. i., pp. 24–25.

* *Annals of Congress*, 1st Congress, 1st session, p. 105 *et seq.*

is a good one—that commerce ought to be free, and labor and industry left at large to find its proper object—the only thing which remains will be to discover the exceptions that do not come within the rule I have laid down. * * *

"Duties laid on imported articles may have an effect which comes within the idea of national prudence. It may happen that materials for manufactures may grow up without any encouragement for this purpose; it has been the case in some of the States, but in others regulations have been provided, and have succeeded in producing some establishments which ought not to perish from the alteration which has taken place; it would be cruel to neglect them and divert their industry to other channels." *

He said, however, that those industries which were already established and others which would naturally spring up must be protected, and that an embargo in time of war was a necessity. He thought a discriminating tonnage tax ought to be laid because other nations discriminated against us, and that if we treated all foreign nations alike we were practically discriminating against our own ships, adding that we ought to encourage transportation facilities and should enlarge our markets †

On April 11 Smith, of Maryland, presented a petition from 700 mer-

* *Annals of Congress*, 1st Congress, 1st session, pp. 112–113; Hunt, *Life of Madison*, p. 170; Thompson, *History of Protective Tariff Laws*, pp. 52–54, 62–63; Curtis, *Constitutional History*, vol. ii., pp. 169–170.

† *Annals of Congress*, 1st Congress, 1st session, p. 210 *et seq.* W. G. Sumner, in a little book entitled *Protectionism*, gives the arguments on both sides, but thinks protectionism is a fallacy. See also John H. Allen, *The Tariff and Its Evils; Both Sides of the Tariff Question by the World's Leading Men*; Franklin Pierce, *The Tariff and the Trusts* (1907).

chants, mechanics and others of Baltimore, which set forth:

"That, since the close of the late war and the completion of the Revolution, your petitioners had observed with serious regret the manufacturing and trading interests of the country rapidly declining, and the attempts of the State Legislatures to remedy the evil failing of their object; that, in the present melancholy state of our country, the number of poor increasing for want of employment, foreign debts accumulating, houses and lands depreciating in value, and trade and manufactures languishing and expiring, they look up to the Supreme Legislature of the United States as the guardians of the whole empire, and from their united wisdom and patriotism and ardent love of their country, expect to receive that aid and assistance which can alone dissipate their just apprehensions and animate them with hopes of success in future, by imposing on all foreign articles which can be made in America such duties as will give a just and decided preference to their labor; discountenancing that trade which tends so materially to injure them and impoverish their country; * * * that they have annexed a list of such articles as are or can be manufactured among them, and humbly trust in the wisdom of the legislature to grant them, in common with the other mechanics and manufactures of the United States, that relief which may appear proper." *

Fisher Ames succeeded in having wool-cards introduced into the schedule, because they were "manufactured to the eastward as good and cheap as the imported ones."† At the suggestion of Clymer, steel was placed in the schedule without much

opposition,* though Theodorick Bland objected, saying, "Then certainly you lay a tax on the whole community, in order to put the money in the pockets of a few, whenever you burden the importation with a heavy impost."†

Heading the list of articles on which special duties were to be laid was Jamaica rum, which, on motion, was changed to distilled spirits of Jamaica proof. Around this the debate finally centered. As two duties were suggested — 15 and 12 cents per gallon — the committee was divided into high and low tariff advocates. One of the low tariff men suggested that the higher the duty the less likelihood there would be of collecting it. He said:—

"I trust it does not require much illustration to prove to the satisfaction of the committee that if you lay your duties too high, it will be a temptation to smuggling; for in the proportion which that sum bears to the value of the article will be the risk run in every attempt to introduce it in a clandestine manner, and, if this temptation is made too strong, the article will furnish no revenue. I believe if the committee shall impose a duty of fifteen cents * * * that we shall lose our revenue altogether, or be compelled to use a mode of collection [which will] absorb the whole produce." ‡

In answer, Boudinot said that he was:

"in favor of taxing this article as high as there is a probability of collecting the duty. I think our doing so will answer two or three good purposes. The present object of the committee is to raise a revenue, and no article on the list

* *Ibid*, p. 147.

† *Ibid*, p. 124.

‡ *Ibid*, pp. 125-126; Benton, *Abridgment of Debates*, vol. i., p. 28; McMaster, *United States*, vol. i., pp. 545-546.

* *Annals of Congress*, vol. i., p. 115; *American State Papers, Finance*, vol. i., pp. 5-8. Memorials were received also from the merchants, manufacturers, mechanics and others in New York, Boston, and various places in New Jersey and from the shipbuilders of Philadelphia and Charleston. See Bishop, *History of Manufacturers*, vol. ii., p. 10; *American State Papers, Finance*, vol. i., pp. 9-11. See also R. W. Thompson, *The History of Protective Tariff Laws*, p. 38 *et seq.*; *Annals*, p. 123.

† *Ibid*, p. 168.

before you is more likely to be productive than this one; but a high duty may also discourage the use of ardent spirits, if not, it may discourage the West Indies from turning their molasses into rum. This being the case, they have no other market for molasses than this country, and our own distilleries, with the advantages arising therefrom, will be able to rival them in the manufacture of that article.”*

Fisher Ames then attacked Bondi-not's remarks on the moral effects of the tax, reminding the committee that they were not in church or at school listening to “harangues of speculative piety.” He further said:

“We are to talk of the political interests committed to our charge. When we take up the subject of morality, let our system look towards that object, and not confound itself with revenue and protection of manufactures. If gentlemen conceive that a law will direct the tastes of the people from spirituous to malt liquors, they must have more romantic notions of legislative influence than experience justifies.”†

John Lawrence of New York, a low tariff man, argued that rum, not morality, was to be taxed, and that money, not sobriety, was the object of the tax. He claimed also that, unless the government undertook a system of tax-gathering which would be odious to all, smuggling would be prevalent.‡ It would be necessary, he thought, to have a navy of revenue cutters to board and search every vessel that came within sight and an army of custom house officers, tide-waiters and gaugers, and doubted not that under such a system, when the books had been balanced, the cost of

collecting the imposts would greatly exceed the duties collected, thus being a drain upon the Treasury, instead of a benefit to it. Nevertheless the committee placed the tax at the higher amount—15 cents.*

Molasses, every gallon of which was imported, was the next article considered. As the country's consumption of this was large and as Madison opposed an excise, being ready to agree to almost any import duty, rather than resort to internal taxation, a duty of 8 cents per gallon was proposed.† Immediately the New England members protested, because the importation in that section was great, Massachusetts alone importing 40,000 hogshead of molasses, part of which was made into rum and part consumed raw. Hence Ames said that the tax would have to be paid almost exclusively by Massachusetts.‡ The New Englanders argued also that the fishing industry would be ruined, as a large portion of each year's catch of fish was exchanged for molasses in the French West Indies; but if molasses were taxed highly, the French would not exchange it for fish, and as the West Indies was the only market for fish and as molasses was the only exchangeable product of these islands, two industries would thus be ruined.¶

The distilling industry had tied up

* *Annals of Congress*, p. 127; Benton, p. 28.

† *Annals of Congress*, vol. i., pp. 222-223. McMaster (vol. i., p. 546) gives a different version.

‡ *Annals of Congress*, vol. i., pp. 197, 202-204.

* Stanwood. *Tariff Controversies*, vol. i., p. 43.

† *Ibid*, vol. i., p. 44.

‡ Gay, *Life of Madison*, p. 133.

¶ McMaster, *United States*, vol. i., pp. 547-549.

a capital of about \$500,000 and the fishing fleet of Massachusetts alone numbered 480 smacks.* Hence, if rum and molasses were burdened with a high duty, the fishermen would be unable to exchange their fish for these articles; and if no raw materials were imported, the distilleries would cease operations, fish would no longer be caught for lack of a market and the men engaged in these industries would be compelled to seek other employment. After much deliberation, the committee reduced the duty to 6 cents.†

The remaining items of the list were now considered, some articles being taxed without debate while others were discarded altogether. Some, however, such as malt, salt, cordage, hemp, candles, and steel, gave rise to long and acrimonious discussion. A duty of 9 cents per bushel on malt was proposed. Fitzsimons thought the malt industry ought to be encouraged, for, said he, "if the morals of the people were to be improved by what entered into their diet, it would be prudent in the national legislature to encourage the manufacture of malt liquors." Others thought the high rate would prohibit the importation of foreign beer, would give a decided preference to American beer, and encourage agriculture by inducing the cultivation of malt

and hops. Madison favored a duty of 8 cents, which rate was agreed upon at first, but was afterwards raised to 10 cents.* When a duty of 2 cents a pound on tallow candles was proposed, Thomas T. Tucker, of South Carolina, opposed it because it bore heavily upon those States which were obliged to import their candles. Fitzsimons retorted that Tucker moved to strike out every article imported into South Carolina on which it was proposed to raise a duty,† and after several favorable speeches the duty was voted.‡

When steel was taken under consideration, Lee, of Virginia, moved that it be struck from the list, which action would have thrown that article back into that class charged 5 per cent. *ad valorem*. He argued that, since the consumption could not be met by domestic manufactures, its taxation would operate as an indirect and oppressive tax on agriculture.|| Tucker said a bounty, instead of a tax, ought to be imposed, since the former would increase the quantity, while the latter would decrease the quantity and raise the price.§ Clymer, of Pennsylvania, admitted that the industry was in its infancy, but, inasmuch as all the raw materials could be found in this country, he thought

* Stanwood, *Tariff Controversies*, vol. i., p. 45.

† *Annals of Congress*, vol. i., p. 146.

‡ Stanwood, *Tariff Controversies*, vol. i., pp. 45-46.

|| *Annals of Congress*, vol. i., p. 147; Dewey, *Financial History*, p. 81.

§ *Annals of Congress*, vol. i., p. 147.

* Bishop, *History of Manufactures*, vol. ii., pp. 17-18.

† Gay, *Life of Madison*, p. 138; Stanwood, *Tariff Controversies*, vol. i., p. 45.

it prudent "to emancipate our country from the manacles in which she was held by foreign manufacturers." He said that one furnace alone in Philadelphia produced 230 tons annually and might, with a little encouragement, produce enough steel for the whole country. So effective was his appeal for "a degree of patronage to a manufacture which a moment's reflection would convince them was highly deserving protection,"* that the committee imposed a duty of 56 cents per 112 pounds.†

The duties on cordage and hemp elicited a long debate.‡ It was originally proposed to tax cordage only. Some objection was made to taxing articles used in shipbuilding, but it seemed advisable to encourage the cordage industry in order to render the country independent of the foreign supply. Accordingly a duty of 50 cents per hundred weight was voted. Madison then said that if it were politic to tax cordage to encourage the rope-makers, then the production of hemp, the raw material of cordage, should also be encouraged. The New England members opposed the hemp duty altogether and were not in favor of a high duty on cordage, if thereby the shipbuilding industry would be injured. The members from eastern Pennsylvania, Virginia and South Carolina supported the

hemp duty as encouraging agriculture.

Burke, of South Carolina, however, made the following statement in regard to South Carolina and Georgia:

"The staple products of that part of the Union are hardly worth cultivation, on account of their fall in price; the planters are, therefore, disposed to pursue [procure?] some other. The lands are certainly well adapted to the growth of hemp, and he had no doubt but its culture could be practised with attention. Cotton is likewise in contemplation among them, and if good seeds could be procured, he hoped it might succeed. But the low, strong rice lands would produce hemp in abundance—many thousand tons even this year, if it were not so late in the season. He liked the idea of putting a low duty now [on hemp], and encouraging it against the time when a supply might be had of our own cultivation."*

Accordingly the duty was fixed at first the same as for cordage, but, as finally passed, the rates were raised to 90 cents on cordage and 60 cents on hemp, though the duty on the latter did not go into effect until January 1, 1791.†

The New England members and those from eastern Pennsylvania united for mutual advantage in taxing manufactures of iron; a protective duty was obtained for nails, spikes, tacks and beads (which at this time were manufactured by New England farmers in their homes during the long winter nights‡); preferential duties were laid on paper and leather

* *Annals*, p. 155; Benton, *Abridgment of Debates*, vol. i., p. 37.

† Stanwood, *Tariff Controversies*, vol. i., pp. 47–48.

‡ *Annals of Congress*, vol. i., pp. 156–157; Bishop, *History of Manufactures*, vol. i., p. 499.

* *Ibid.*, p. 147.

† Stanwood, *Tariff Controversies*, vol. i., pp. 46–47.

‡ *Annals of Congress*, vol. i., p. 149 *et seq.*

manufactures;* wool and cotton cards and salt were taxed, though to the inclusion of the last article the agricultural members offered determined opposition on the plea that the necessities of life for people and for cattle should not be taxed, and coal was taxed 3 cents per bushel, at the suggestion of a Representative from Virginia, which State was then yielding large quantities of bituminous coal.†

Finally the committee succeeded in getting its report ready for submission to Congress. According to the system of procedure at that time, the whole ground must be gone over again. The debates in Congress were merely a repetition of those in the committee, the members from the different sections attacking or defending the various schedules according as they were deemed to harm or benefit their respective constituents. Moreover, the feeling of resentment against England was strong and the desire to keep out her manufactures clearly manifest.‡ The South complained that a high protective tariff on certain articles would not benefit

them, while the New England members were equally wrought up by the duty on molasses. George Thatcher, of Massachusetts, said the tax of 6 cents would be a great hardship to New England. "Suppose," said he, "a member from Massachusetts was to impose an impost on negroes, what would you hear from the Southern gentlemen if fifty dollars was the sum to be laid? And yet this is not more than the proportion laid upon molasses. If the pernicious effects of New England rum have been greatly lamented, what can be urged for negro slavery?"* Later he remarked that, "if the support and good will of 400,000 citizens are worthy of cultivation, the House will decide the present question with candor and moderation,"† this broad hint being probably the first recorded threat of secession after the adoption of the Constitution. Boudinot rebuked Thatcher by saying:

"I have so high an idea of the good sense and patriotism of the citizens of Massachusetts that I never can be persuaded that if this House, on principle, think it expedient to lay a duty on any particular article, the inhabitants of that State will rise in opposition to the measure. I believe them to be as well affected toward the Government as any other part of the United States."‡

The effort to reduce the molasses duty was defeated, but later the rate was reduced to 5 cents per gallon and a drawback of 3 cents was voted on

* On sole and upper leather, leather manufactures and gloves of that material the rate was 7½ per cent. Boots paid 50 cents and shoes 7 cents per pair. Raw hides and skins were admitted free. Bishop, *History of Manufactures*, vol. i., p. 463.

† Schouler, *United States*, vol. i., pp. 99-100; Stanwood, *Tariff Controversies*, vol. i., pp. 48-50; Bishop, *History of Manufactures*, vol. ii., p. 17; Thompson, *History of Protective Tariff Laws*, p. 62.

‡ F. W. Taussig, *Tariff History of the United States*, p. 15 (ed. 1910).

* *Annals of Congress*, vol. i., pp. 215-216.

† *Ibid.*, vol. i., p. 216.

‡ *Ibid.*, p. 217.

every gallon of rum exported. Tucker then made a long speech advocating a general reduction and proposing that, as a starter, the tax on distilled spirits be reduced by 6 cents per gallon.* A grave and serious debate ensued, during which Ames warned the House that, if an unpopular revenue act were passed, the people would be against the new government.† After Madison had spoken in a conciliatory tone, the motion to reduce the duty was rejected by a vote of 26 to 19.‡

Parker, of Virginia, now proposed that a duty of \$10 apiece be laid on all negroes imported into the country. He argued that the practice of slavery was nefarious and should be prohibited, and that a tax might act as a deterrent to an "irrational and inhuman" traffic.|| In reply, Jackson, of Georgia, said that because Virginia had all the slaves she needed, she should not act selfishly in the matter but allow the other States to secure the necessary supply of slaves before an impost were laid. He said the negroes were better situated in slavery, since they would not work when free. He cited Maryland, where the slaves had been set free and had turned "pick-pockets and petty larceny villains."§ Madison said:

"It is to be hoped that by expressing a national disapprobation of this trade we may destroy it, and save ourselves from reproaches, and our posterity the imbecility ever attendant on a country filled with slaves. * * * If there is any one point in which it is clearly the policy of this nation, so far as we constitutionally can, to vary the practice obtaining under some of the state governments, it is this. * * * It is as much the interest of Georgia and South Carolina as of any in the Union. Every addition they receive to their number of slaves tends to weaken and render them less capable of self-defense. * * * It is a necessary duty of the general government to protect every part of the empire against danger, as well internal as external. Everything, therefore, which tends to increase this danger, though it may be a local affair, yet, if it involves national expense or safety, becomes of concern to every part of the Union, and is a proper subject for the consideration of those charged with the general administration of the government."*

Burke saw little difference between laying a specific duty of \$10 on slaves and collecting a five per cent. duty on them as merchandise, the amount of revenue being practically the same.† After some debate, Parker withdrew his motion,‡ and henceforth the provision in the Constitution laying a tax of \$10 on importing slaves remained a dead letter. A free trade policy was established so far as slaves were concerned, until the traffic was supposed to cease by Constitutional limitation in 1808.

On May 15 the bill was recommitted to the Committee of the Whole, whereupon Madison moved that the operation of the law be limited to a certain

* *Ibid.*, vol. i., pp. 291-296; Benton, *Abridgment of Debates*, vol. i., pp. 57-59.

† *Annals*, p. 297; Benton, pp. 59-61.

‡ Stanwood, *Tariff Controversies*, vol. i., pp. 51-53.

|| *Annals*, vol. i., p. 336; Benton, p. 73; Gay, *Life of Madison*, p. 135.

§ *Annals*, p. 336.

* *Ibid.*, p. 340; Gay, *Life of Madison*, pp. 138-139; Benton, *Abridgment of Debates*, vol. i., p. 75.

† *Annals*, p. 341.

‡ McMaster, vol. i., pp. 552-555.

time. An animated debate followed, but the next day the time was fixed as the end of the session of Congress to be held next after June 1, 1796.* The bill was then passed (41 to 8) and sent to the Senate. No reports of these debates of the Senate have been preserved,† but on June 11 the bill was returned to the House with numerous amendments. These differences were adjusted, the bill was passed again,‡ and by the signature of President Washington became law July 4, 1789.¶ By its terms specific duties were levied on thirty-six enumerated articles: 15 per cent. *ad valorem* on carriages; 10 per cent. on seven articles; $7\frac{1}{2}$ per cent. on sixteen articles; and 5 per cent. on all other goods save seventeen articles, which constituted the first free list. On Jamaica proof spirits the duty was 10 cents per gallon; on all other spirits 8 cents; on molasses $2\frac{1}{2}$ cents; on cocoa 1 cent per pound; on coffee $2\frac{1}{2}$ cents; on Madeira wine 18 cents per gallon; on other wine 10 cents per gallon. The articles over which controversies arose were taxed as fol-

lows: malt 10 cents per bushel; brown sugar 1 cent a pound; loaf sugar 3 cents a pound; tallow candles 2 cents; untarred cordage and yarn 90 cents per hundredweight (112 pounds); steel 56 cents per hundredweight; coal 2 cents a bushel; nails and spikes 1 cent a pound; and salt 6 cents a bushel. A duty of 6 cents was laid on Bohea tea coming direct from China or India in vessels owned wholly by Americans, but 8 cents if the tea came from other countries, and 15 cents if the vessels were owned by foreigners. On glass, china, stone and earthenware, lace, paint, gunpowder, buckles, and gold and silver lace the rate was 10 per cent. *ad valorem*; on metal wares, iron castings, hats, millinery and ready-made clothing, gloves and leather, paper, cabinet ware and buttons, the rate was $7\frac{1}{2}$ per cent.; the free list included old metal, wool, cotton, dyestuffs, hides and fur, and saltpetre. On hemp the duty was 75 cents per hundredweight, and on cotton three cents per pound, to become operative on December 1, 1790.* Upon imported goods exported within a year after the payment of duty a drawback of the full duty, less 1 per cent., was allowed; and on each quintal of dried fish, barrel of pickled fish, and barrel of salted meat exported a

* *Annals*, pp. 344-365; Benton, *Abridgment*, pp. 77-84.

† Senator Maclay's journal is the best source of information, though he is very severe in his criticisms of those with whom he differed. Stanwood gives copious extracts in his *Tariff Controversies*, vol. i., pp. 55-58.

‡ Discussions on the amendments are in *Annals of Congress*, vol. i., pp. 585-590.

¶ *United States Statutes-at-Large*, vol. i., p. 24; *Annals of Congress*, 1st Congress, 1st session, vol. ii., pp. 2129-2132; *Acts of Congress*, 1st Congress, 1st session, chap. ii.; Bolles, *Financial History*, pp. 75-76; McMaster, vol. i., p. 549.

* Thus, as Hammond says, the Southern agriculturists were among the first to receive the benefits of the protective system.—M. B. Hammond, *The Cotton Industry, an Essay in American Economic History*, in *Publications of the American Economic Association*, N. S. no. i. (1897), p. 20.

bounty of 5 cents was allowed in lieu of a drawback. If goods were imported in vessels wholly owned by Americans, a discount of 10 per cent. was allowed.*

During the discussion on the tariff a protracted debate occurred respecting a tonnage duty discriminating against the shipping from countries with which the United States was not in alliance,† but the measure was separated from the revenue bill and passed later. The New England members joined those from the Middle States in advocating a tonnage duty, claiming that the distress of the East was due to the lack of such an impost, and that a protective tariff would give life to the ship-building industry, then practically dead. The southern mem-

bers, on the other hand, claimed that a tonnage duty would ruin the South, as many of the vessels carrying southern produce was foreign.* The duty would increase the freightage, and the crops of the planters would rot on the ground on account of prohibitive freight rates. Nevertheless, the duty was laid—6 cents on vessels built and owned in the United States, 30 cents on vessels built but not owned in the United States, as well as on vessels belonging to nations having treaties with the United States, and 50 cents on all others.† But when it came to discriminating against vessels of foreign nations who refused to enter into treaty alliance with the United States, another heated discussion arose.‡ Madison urged that allied nations should be given the preference, but as this excluded Great Britain, the members from New England, New York and Charleston strongly opposed Madison's views. Madison believed that we had a right to make such discrimination and that by favoring such nations as had treaties of commercial reciprocity with us we not only strengthened the ties already formed abroad, but would be in

* Stanwood, *Tariff Controversies*, vol. i., pp. 58-60; Dewey, *Financial History*, pp. 81-82. As to the protective features of the bill, see Stanwood, p. 60 *et seq.*; Bolles, *Financial History*, p. 78; Bishop, *History of Manufactures*, vol. i., p. 631; vol. ii., p. 16; Hill, *First Stages of the Tariff Policy*, p. 112; W. G. Sumner, *Protection in the United States*, p. 24; Condé Raguet, *Principles of Free Trade*, p. 9; H. C. Adams, *Taxation in the United States*, p. 26 *et seq.*; F. W. Taussig, *Tariff History of the United States*, p. 14 (ed. 1910). On the tariff in general, see also F. W. Taussig, *State Papers and Speeches on the Tariff*, pp. 1-107; W. Hill, *Protective Purpose of the Tariff Act of 1789*, in *Journal of Political Economy*, vol. ii., pp. 54-77; O. L. Elliott, *The Tariff Controversy in the United States, 1789-1833*, in *Leland Stanford Jr. University Monographs in History and Economics*, No. i., pp. 67-92; Ugo Rabbeno, *The American Commercial Policy*, pp. 111-145; Coman, *Industrial History of the United States*, pp. 139-144; Curtis, *Constitutional History*, vol. ii., p. 179 *et seq.*

† See *Annals of Congress*, vol. i., pp. 176, 233, 252, 272. These are abridged considerably in Benton, p. 53 *et seq.*

* *Annals of Congress*, vol. i., pp. 179-180, 187-188; Gay, *Life of Madison*, p. 134; Katharine Coman, *Industrial History of the United States*, p. 131.

† Act July 20, 1789, 1st Congress, 1st session, chap. iii.; Bolles, *Financial History*, p. 76; *Annals of Congress*, vol. ii., p. 2132; McMaster, vol. i., pp. 549-552; Dewey, *Financial History*, pp. 83-84.

‡ *Annals of Congress*, vol. i., p. 181 *et seq.*; Benton, *Abridgment of Debates*, vol. i., p. 48 *et seq.*

a position to force other nations to come to terms and seek our friendship.* The opposition maintained, however, that this affront to Great Britain would irritate without injuring her, and that we could not afford to provoke such a powerful nation. Nevertheless the House passed the measure, with the discriminating clause incorporated, and sent it to the Senate. The latter eliminated this clause and returned the bill; as conference committees failed to reach an agreement, the bill was finally passed, with the assurance that the Senate would take up the tonnage discrimination separately. In this expectation Washington signed the bill July 20. But the Senate failed to act, and when in the next session Madison again brought up the subject, the Senate refused to sanction the measure.†

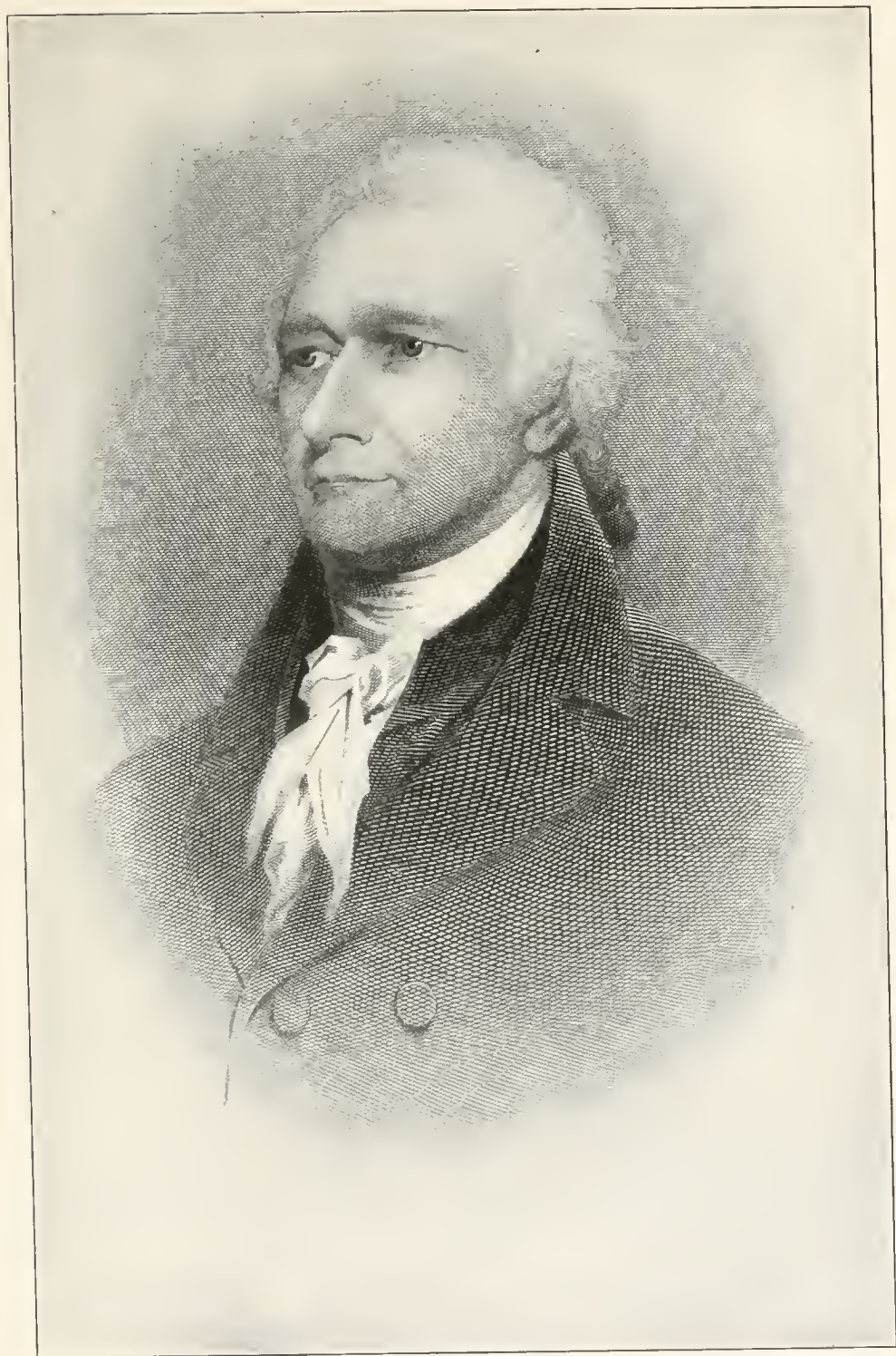
The tariff act of July 4, 1789, was an experimental measure and was soon found to need revision. In January of 1790, during the second session of the First Congress, Hamilton estimated the expenses of the government at \$600,000 and said that \$2,239,163 would be required to pay the interest on the domestic and foreign debts. He thought the existing duties would suffice if the rates on wines, spirits,

tea and coffee were increased and an excise placed on domestic spirits. Accordingly on April 27, 1790, the House in Committee of the Whole adopted resolutions favoring duties on foreign spirits, ranging from 20 to 40 cents per gallon, according to proof, and an excise on domestic spirits ranging from 9 to 25 cents per gallon. The excise feature excited a warm debate, and, on May 11, after two ineffectual attempts to strike out the excise provision, a vote was cast which practically amounted to a rejection of the bill. As some means of raising revenue had to be found, a committee was appointed June 21, with Fitzsimons as chairman and Madison as second member. Of this committee three members favored the excise and two opposed it. Its report was made June 29. On July 2, in Committee of the Whole, the House passed resolutions favoring a general increase of 50 per cent. in the duties on specified articles and a still larger increase in the duties on tea, coffee, wines, spirits and spices. On July 13 a bill was reported in accordance with the committee's findings, was briefly debated and, on July 19, passed. With a few amendments, the Senate passed the bill August 5. The House accepted the amendments, and on August 10, 1790, the bill became a law.* By this act the duty on hemp was reduced from 60 to 54 cents per hundredweight, that on

* For his speech of May 4, see *Annals of Congress*, vol. i., pp. 236-240; for an abstract, see Hunt, *Life of Madison*, pp. 172-174.

† Schouler, *United States*, vol. i., pp. 101-102. See also Madison's letters regarding this, in *Madison's Works* (Congress ed.), vol. i., pp. 470, 472, 474, 480 *et seq.*, 485-486.

* *Acts of Congress*, 1st Congress, 2d session, chap. xxxix.



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tarred cordage was increased from 75 cents to \$1, on untarred cordage from 90 cents to \$1.50, and on steel from 56 to 75 cents per hundredweight. Many articles were taken out of the unenumerated class at 5 per cent., and placed under a duty of $7\frac{1}{2}$ or 10 per cent., the higher duty being placed on manufactured articles. It was further declared that the duties thus levied should be continued until the public debt and the purposes for which they were appropriated had been satisfied, though the right was reserved to substitute other duties or taxes of equal value. Thus the time limitation contained in the act of 1789 was repealed.*

Shortly after the second session of the First Congress convened, January 4, 1790, Secretary of the Treasury Hamilton asked permission to submit a plan for the support of public credit which he had drawn up pursuant to previous instructions from Congress. According to the report submitted January 9, the national debt, which had originated principally during the Revolution, was of two kinds—foreign and domestic. According to Hamilton's estimate, the total amount was \$54,124,464.56. Of this sum the foreign debt, due chiefly to France and Holland, amounted to \$11,710,378.62, including the interest of \$1,640,071.62. The domestic debt reached \$42,414,085.94, including a large amount of in-

terest and a sum estimated at \$2,000,000 of unliquidated domestic obligations consisting chiefly of Continental bills of credit. In addition to the national debt, the various States had contracted individual debts during the war for the purpose of supporting the military service and for erecting works of defence, furnishing provisions and clothing, and for advancing pay and bounties, etc. These State debts, principal and interest, were estimated at about \$25,000,000.* Hamilton's report was able, perspicuous and comprehensive. In a few curt sentences he states the object to be attained:

"To justify and preserve the confidence [of the most enlightened friends of good government]; to promote the increasing respectability of the American name; to answer the calls of justice; to restore landed property to its due value; to cement more closely the union of the States; to add to their security against foreign attack; to establish public order on the basis of an upright and liberal policy;—these are the great and invaluable ends to be procured by a proper and adequate provision, at the present period, for the support of public credit."†

No one pretended to deny that the foreign debt should be paid according to the terms under which it had been

**American State Papers, Finance*, vol. i., p. 22; Colles, *Financial History*, p. 30; Dewey, *Financial History*, pp. 89-90. See also Sparks, *Life of Washington*, pp. 424-425; Schouler, *United States*, vol. i., p. 145. The text of Hamilton's report will be found in *American State Papers, Finance*, vol. i., pp. 15-37; MacDonald, *Select Documents*, pp. 47-58; *Annals of Congress*, vol. ii., pp. 1992-2022; Hamilton's ed. of *Hamilton's Works*, vol. iii., p. 1 *et seq.* See also Appendix I. at the end of the present chapter.

† Lodge, *Alexander Hamilton*, pp. 89-90; Hamilton's ed. of *Hamilton's Works*, vol. iii., p. 5.

* Stanwood, *Tariff Controversies*, vol. i., pp. 72-75; Bolles, *Financial History*, p. 76.

contracted, but with respect to the domestic debt opinions differed. Hamilton urged that the faith and honor of the nation demanded the payment of debts due to citizens holding the public pledges for such payment and that it was "equally unjust and impolitic, highly injurious even to the original holders of public securities and ruinous to public credit" to discriminate between those who originally held public securities and those to whom they had been transferred, either by purchase or otherwise. He declared himself in favor of assuming the State debts and opposed differentiating between the National creditors and State creditors. As both debts were contracted for the same purpose and were in the main the same, equity demanded for them the same measure of redemption. He proposed to float a loan for the full amount of the debt, both of the States and of the Union, but as he doubted whether the government possessed power to make effectual provision for paying the interest on so large a sum on the terms of the original contracts, he submitted several plans to the House by which the domestic debt might be paid; and that the Treasury might meet the increased demand that would thus be made upon it, he recommended that the duties be increased on imported wines, teas, etc., and that a duty be laid on home-made spirits.*

* Irving, *Life of Washington*, vol. v., pp. 58-60; McMaster, *United States*, vol. i., pp. 568-569; Lodge, *Alexander Hamilton*, pp. 96-97.

The subject was taken up in the House on January 28, 1790, but was postponed and was not resumed again until February 8.* At this time Fitzsimons moved that the principles of the report be affirmed. Without a dissenting voice, the House agreed to provide for meeting the foreign debt, but an animated debate arose over the resolution for appropriating funds to pay the interest on the domestic debt and for gradually extinguishing the principal.

Speculation had become rife because, owing to the disordered condition of the National finances, the certificates issued by the old Congress had been used as a basis for numerous mercantile transactions of a wildly hazardous nature. These certificates had depreciated until they were worth only from 20 to 25 cents on the dollar. If Hamilton's plan of funding at par should be adopted, these certificates and evidences of State indebtedness would greatly enhance in value. As a result, there was a wild rush on the part of speculators to purchase certificates held by those at a distance from New York who might be ignorant of their increased value.† The price was thus raised 40 or 45 per cent.‡ These speculators never had been popular with the average thrifty citizens, much

* Benton, *Abridgment of Debates*, vol. i., pp. 182-184, 190-201; *Annals of Congress*, vol. i., pp. 1093-1103, 1130 *et seq.*

† Schouler, *United States*, vol. i., p. 146.

‡ Dewey (*Financial History*, p. 91) says that upon the publication of Hamilton's report the certificates went up to 50 cents on the dollar.

less with the farmers and planters of the South, and the payment to them of a bonus had the air of endorsing their craftiness. This intolerance of speculation, therefore, drove large numbers of the people into opposition to those who placed the public credit above everything. The speculators consisted chiefly of city people and financiers who controlled the newspapers and had alliances with many of the influential persons of the time, including some members of Congress. Owing to their persistent advocacy of Hamilton's plan, the Republicans charged that they were corruptly selfish.*

James Jackson was altogether hostile to the funding system, and on January 28, 1790, when the report was under consideration, he said:

"Since this report has been read in this House, a spirit of havoc, speculation, and ruin has arisen, and been cherished by people who [because they lived in New York] had access to the information the report contained that would have made a Hastings blush to have been connected with, though long inured to preying on the vitals of his fellowmen. Three vessels, sir, have sailed within a fortnight freighted with speculation; they are intended to purchase up the State and other securities in the hands of the uninformed though honest citizens of North Carolina, South Carolina and Georgia." †

He said that his soul rose indignant at the "avaricious and moral turpitude which so vile a conduct displays." ‡ On February 9, Jackson made another speech, in which he cited

Florence, Genoa, Venice, Spain, France, and England as instances where funded debts had brought ruin or misery to a country, causing it to decline greatly.*

Scott then expressed the opinion that the United States debtors were not bound to pay the domestic creditors the face value of their certificates of debt, because the original holders had parted with them at 2s. 6d. in the pound. †

By thus paying in full, the nation would not be rewarding generously its original creditors—the men who had furnished the sinews of war when the country most needed their aid—but would merely be enriching a horde of assignees who had purchased the certificates at an enormous discount and who had used their superior knowledge of the Secretary's plans to mislead the public (the original holders) of thousands of dollars rightfully belonging to them. Even though the domestic debt were reduced two-thirds, these hungry speculators—these public vipers—would still make a handsome profit upon their investment. ‡ Scott therefore introduced an amendment requiring a resettlement of the debt, but, being successfully opposed by Sherman, Ames and others, this was thrown out by the House.

* Bassett, *The Federalist System*, p. 31.

† *Annals of Congress*, 1st Congress, vol. i., p. 1093.

‡ Gay, *Life of Madison*, p. 152; Dewey, *Financial History*, p. 91.

* Benton, *Abridgment of Debates*, vol. i., pp. 101–102; McMaster, vol. i., pp. 571–572.

† See his speech of February 10, in *Annals of Congress*, vol. i., p. 1165; McMaster, vol. i., pp. 574–576.

‡ Schouler, *United States*, vol. i., p. 147.

On February 11 Madison rose and in an eloquent speech admitted, on the one hand, that the public faith could be kept inviolable only by paying these certificates at their face value and, on the other hand, declared himself impressed by the palpable inequity of giving to speculators all the benefit of a public sacrifice. He therefore proposed that the resolution be amended so that the present holder of assignable paper should be paid the price it had borne in the market at the time the discussion began and that the difference between that sum and par be paid to the original creditor. This measure was supported by all who opposed Hamilton's plan*

But Madison's plan was entirely impractical; its very suggestion repelled the Secretary's friends whose sense of public faith and honor did not admit the casuistry of a debtor playing the part of arbiter among his own creditors and dishonoring his own paper for the sake of rewarding former holders. Nor could the opponents be satisfied with the plan, the plain device of which was to lighten

the public burden and decrease taxation.* The debate was long and spirited, and on February 22, when the question was put, the amendment was rejected by a vote of 36 to 13.†

When the subject of State debts came up, the proposition "seemed to unchain all those fierce passions which a high respect for the government and for those who administered it, had in a great measure restrained." This was due chiefly to the fact that the State debts were very unequal. Those of Massachusetts and South Carolina amounted to more than \$10,500,000, while the other debts were estimated at between \$14,000,000 and \$15,000,000. The debt of Connecticut also was large, and, as the total of the three amounted to about half the entire debt, these States were deeply interested in the ultimate outcome of the debate. South Carolina was the

* Schouler, *United States*, vol. i., pp. 148-149.

† McMaster, p. 578; Gordy, *Political History of the United States*, vol. i., pp. 120-121. Benton, in his *Abridgment of Debates* (vol. i., p. 228), says: "The motion of Mr. Madison was lost, and with it the largest door was opened to the pillage of original creditors, the plunder of the public treasury, and the corruption of Congress, which the history of any government has ever seen. The immediate mischief was some thirty millions; it was only the beginning. Assignees of claims have since been the great suitors of Congress; purchasing for a trifle, and upon speculation; pursuing the recovery by indirect means; taking no denial; and gaining at the end what was scouted at the start. It has given rise to a new profession; a new industrial pursuit; still more industrious by night than by day; hunting up claims; pressing them upon Congress; and by organization, skill, perseverance, appliances, and seductions, carrying through the most unfounded demands."

* Hunt, *Life of Madison*, pp. 181-182; Gay, *Life of Madison*, p. 154 *et seq.*; McMaster, vol. i., p. 576; *Annals of Congress*, 1st Congress, vol. ii., pp. 1191, 1205-1412, 1417-1448. See also his letter to Jefferson, February 14, *Madison's Works* (Congress ed.), vol. i., p. 507. He says: "My idea is that there should be no interference of the public in favour of the public either as to principal or interest, but that the highest market price only should be allowed to the purchasers and the balance be applied to solace the original sufferers, whose claims were not in conscience extinguished by a forced payment in depreciated certificates."

only one that had not asked for assumption.* In January, 1790, the Legislature of that State instructed its representatives in Congress to urge the assumption of its debt by the nation, arguing that it had been incurred in consequence of the war between the United States and Great Britain. In speaking of Massachusetts, Fisher Ames said that South Carolina had purchased the first ammunition used at Lexington and Bunker Hill and that the cost of this was now a State debt. Virginia, however, had sold some of her Kentucky lands and had issued funding securities at a depreciated rate; thus she had greatly reduced her debt and had promptly met her annual interest charges. North Carolina and Georgia also had greatly reduced their obligations, and naturally these States opposed assumption because, having met a large part of their own indebtedness, they would have to bear a big share of the national burden when the debts of the other States were paid.† The debts of Maryland and New Hampshire were small, and they were naturally against assumption. The Middle States were divided. Pennsylvania interests split upon the issue, while New York and New Jersey supported Hamilton.‡

The accounts were so confused that in some cases it was impossible to ascertain the exact amount expended for

war purposes. The obligations varied greatly in the several States. In Massachusetts, for example, half-pay notes had been issued to the widows and orphans of deceased officers, as well as certificates for the interest due on them. In Connecticut the debt consisted of notes payable to the army, notes issued by the assembly for mounting the dragoons and for special purposes, certificates for interest on the State debt, State bills emitted in 1780, unpaid balances of orders payable from a specific tax, new notes issued in place of old notes reloaned, pay-table orders, etc. In New York the debt was composed of bills of credit, certificates for the payment of levies and militia, certificates for money loaned by individuals, horse notes, claims on forfeited estates, notes issued for pay and for depreciation of pay and pension. In New Jersey certificates were given for depreciation of pay, and the county commissioners had issued certificates for military services. In Virginia was the army debt, balances due foreign creditors, loan-office certificates for paper money funded, and numerous land warrants. The South Carolina debt had been reduced to a more systematic form and consisted of principal, special indents, and a foreign debt. In other States the indebtedness had been spread out in many ways which almost defied disentanglement.*

* Tucker, *Life of Jefferson*, vol. i., p. 319 *et seq.*

† Bassett, *Federalist System*, p. 34; Dewey, *Financial History*, pp. 92-93.

‡ Schouler, *United States*, vol. i., p. 150.

* Bolles, *Financial History*, pp. 26-27. See also the statement of money received from or

Naturally, therefore, when the subject came under discussion, comparisons were made and passions were aroused which never ought to have made their appearance in Congress. Those who favored the assumption of the State debts argued that it was a measure of justice as well as of policy and was just, not only with regard to the creditors themselves, but to the States as well.* It was said that these debts had been incurred for supplies furnished, services rendered and loans made for the benefit of the Nation as a whole, and not for the particular benefit of individual States. From this viewpoint, therefore, the United States should regard the State debts equally as binding as those which were direct national claims. In some cases, as already mentioned, the States had been able to liquidate a portion of this debt, while others were destitute of resources or perhaps had been burdened with a larger debt and were unable to make adequate provision. Hence, if a creditor chanced to live in a large State abounding in wealth and resources, with perhaps a comparatively small debt, he was more likely to be paid than another equally meritorious creditor who, living in a small State which, being desti-

tute of resources, might be able to pay him little or nothing. It was considered only just to all the States, since only in this way would each bear its proportion of the expenses incurred in a common aim. It was contended also that, as the Constitution had transferred to Congress the funds on which the States had relied to pay their debts, it was only just that these debts be paid by Congress.*

Regarding the policy of the measure, it was said that, unless the National government should pay these debts, the efforts of the States to do so would necessarily create an interference between the general and State governments in their revenue systems, since, the United States having the exclusive power to lay imposts, the majority of the States must resort to excise and direct taxes. As the debts of the States were very unequal, this would result in an inequality in taxation. Thus, the greatest burdens would be thrown upon those States

* Washington was heartily in favor of assumption. He believed that as the debts had been incurred in a common cause they should be assumed by the common government. The argument that assumption was unfair because some of the States got more out of it than others, had little weight with him. Some of the States had also been called upon to undergo greater hardships and sufferings than the others, yet all had shared equally in the freedom that had been won. He saw also that the measure was more than the mere payment of certain stated amounts to certain individuals; it was a *national* measure which meant that when the interests of the whole people were involved there were no State or sectional lines. See Lodge, *George Washington*, vol. ii., pp. 105-106. See also Sparks' ed. of *Washington's Writings*, vol. x., p. 98; Irving, *Life of Washington*, vol. v., pp. 61-63.

paid to the States in *American State Papers, Finance*, vol. i., pp. 52-62.

* For more extended discussions of the subject, see Pitkin, *Civil and Political History*, vol. ii., pp. 341-344; Marshall, *Life of Washington*, vol. ii., pp. 183-189; Tucker, *Life of Jefferson*, vol. i., pp. 325-328; Benton, *Abridgment of Debates*, vol. i., pp. 190-201, 216-221; McMaster, *United States*, vol. i., p. 579 *et seq.*

whose exertions had been greatest in behalf of the Revolutionary cause. As a consequence, jealousy and dissatisfaction would spring up. If a direct tax were laid, the landed interest would be compelled to bear the greater part of the burden, and this would result in a rapid migration to the West and a resulting depopulation of the East. If the States resorted to an excise on foreign and domestic goods, smuggling would become prevalent, and thus the revenue of the United States would be materially affected. It was urged that it would be less expensive to collect the same amount of taxes under one general government than under a number, and that by having the general management of all revenues in their hands, Congress would be better able to promote domestic industries and improvements in all sections of the country. The advocates of this measure contended also that the difference in the State debts was not the result of greater exertion on the part of one State, but that the debts of some of the States had been reduced materially by the avails of confiscated property and the returns from territorial acquisitions.

The opponents replied that under no consideration could the State debts be termed National debts and that the United States was under no obligation whatever to discharge any part of them, save the balance which on final settlement might be found due to several States. They maintained that a

public debt was a public evil, and that the assumption of the State debts would tend not only to perpetuate the evil, but to increase it. They said the United States and the several States, coöperating, could more easily and much sooner discharge a debt of eighty millions than the United States alone, and that, after the general government had exhausted every means in their power, other sources of revenue would still remain to the individual States. It was urged, further, that some of the States were hostile to excise and others to direct taxes; that no general system of taxation could be devised which would be satisfactory to all concerned. The difference in the amounts of the State debts also aroused much opposition to assumption. The Anti-Federalists said that it would be unjust to compel them to contribute to the payment of the debts of the delinquent States. Jefferson said:

"The State creditors urge, that these debts were as much for general purposes as those contracted by Congress, and insist that Congress shall assume and pay such of them as have not been paid by their own States. The States who have exerted themselves most, find that, notwithstanding the great payments they have made, they shall by this assumption have nearly as much to pay as if they had never paid anything." *

It was believed that the majority of the people of the country were opposed to it, and though some might be dissatisfied if the measure were not passed, much greater dissatisfaction

* Ford's ed. of *Jefferson's Writings*, vol. v., p. 204.

would follow if it were adopted. Again, if it were right for the Nation to reimburse the States for expenses incurred for National purposes, then, manifestly, the amounts to be repaid were not what they now owed, but the amounts they owed at the close of the war, assuming that all the States had made equal exertions in prosecuting the war and had been equally faithful in complying with the requisitions of Congress. But to assume the debts in 1790 without regard to the efforts of the States to pay them since the war; to assume the debts without taking into account the faithfulness of the States in complying with the requisitions of Congress or the efforts put forth in sustaining the war, would, if that were the primary object of the assumption, be a mockery of justice. If justice were really intended, the contributions of the several States toward carrying on the war should have been ascertained as accurately as possible, and some standard fixed for determining the contributions which each State ought to have made for bearing its just share of the national burden. The States that had borne more than their share would be creditor States, and those that had borne less, debtor States. Suppose that Virginia and Massachusetts were equal in population, wealth, etc., and that the former had contracted for \$10,000,000 indebtedness and the latter \$5,000,000 in carrying on the war; it is obvious that in a final adjustment by the government, the latter, to equalize

things, would be called upon to pay \$2,500,000 to Virginia. But if in the meantime Virginia had paid off \$5,000,000 and Massachusetts none, it would not be fair to assume the debts of the two States as exactly equal. Again, if a requisition for \$1,000,000 had been sent to the two States by Congress, and Virginia contributed \$750,000 and Massachusetts only \$250,000, it would not be fair to leave this out of consideration when assuming the State debts.* The anti-assumptionists feared that the adoption of the measure would tend to make State creditors more dependent on the general government; that the influence and importance of the States would be lessened appreciably while the Union would be further consolidated; and that it would greatly weaken the vigor of the State rights sentiment.†

It was first proposed to the House to assume all the State debts, and this proposition was adopted in Committee of the Whole by a majority of five. On March 23, after the North Carolina representatives had been seated, the subject was recommitted, and on April 12 the proposal was defeated by a majority of two (29 to 27).‡ Shortly after it was proposed to assume specific sums for each, but

* Gordy, *Political History of the United States*, vol. i., pp. 123-124. See also Madison's letter to Edmund Pendleton, March 4, 1790, *Madison's Works* (Congress ed.), vol. i., pp. 508-509. Also pp. 510-514, 516-519, 521.

† Lodge, *Alexander Hamilton*, pp. 121-122.

‡ Hunt, *Life of Madison*, p. 184; Gordy, *Political History*, vol. i., pp. 125-126.

this proposal was rejected. All the various propositions occasioned long debates, and an inquiry into the origin of the State debts was instituted. The anti-assumptionists were now jubilant, but defeat made the Federalists more determined than ever. They declared that they would bring in a bill to assume and block every bill to fund until the assumption bill was passed. Two days later, when a motion was made to go into Committee of the Whole to provide for the domestic debt, the Federalists stontly resisted it. When on June 2 a bill providing for the debts was passed, Gerry introduced a bill to assume.* Both parties now endeavored to win over the Pennsylvania delegates, that being the only State delegation divided on the subject. But the anti-assumptionists won their first battle by agreeing with the Pennsylvania delegates, in repayment for their votes against assumption, to vote for the removal of Congress to Philadelphia for fifteen years and thence to the Potomac forever.

The subject of a permanent residence for the general government had been brought up in Congress several times, for it was considered imperative that some place be selected for the National Legislature.† In 1784 an

ordinance was passed for appointing commissioners to purchase land on the Delaware and to erect the necessary buildings thereon, but the Southern delegates prevented the execution of this ordinance by defeating a bill for the necessary appropriation.* Nothing was definitely decided upon for several years, but in 1789 it was determined to force the matter to a conclusion. On May 13, 1789, shortly after the new Congress met, Alexander White, of Virginia, laid before it an act passed by the Virginia Assembly December 27, 1788, offering a tract ten miles square in any portion of the State for a Federal District.† The next day Seney, of Maryland, offered a similar tract, both States having acted in the hope that the site selected might include the soil on either side of the Potomac.‡

A long debate ensued in which every member participated.|| The Eastern members were of the opinion that the matter was not pressing and could be postponed until the next session; but when the House appeared

ington, *Its Origin and Administrations*, in *Johns Hopkins University Studies*, series iii., nos. xi.-xii (1885); articles in *Magazine of American History* (1877, p. 583; 1884, p. 46); Jonathan Elliot, *Historical Sketches of the Ten Miles Square forming the District of Columbia*; Rives, *Life of Madison*, vol. iii., pp. 50-61.

* Hunt, *Life of Madison*, pp. 190-191.

† *Annals of Congress*, 1st Congress, 1st session, vol. i., p. 344.

‡ See the article *Locating the Capitol* in *Annual Report of the American Historical Association* for 1895, p. 289.

|| See *Annals of Congress*, vol. i., pp. 786-792, 836-888, 895-898, 905-912; Benton, *Abridgment of Debates*, vol. i., pp. 145-165.

* Hunt, p. 184.

† For the various propositions, see Benton, *Abridgment of Debates*, vol. i., p. 145 and *passim*; Sparks' ed. of *Washington's Writings*, vol. ix., p. 549; Towle, *The Constitution*, p. 373; J. B. Varnum, Jr., in *Proceedings of the New York Historical Society* (1847, p. 9); A. R. Spofford, *Founding of Washington* (*Md. Hist. Soc. Fund. Pubs.* no. 17); J. A. Porter, *The City of Wash-*

determined to continue the discussion, these joined the representatives of the Middle States in advocating a spot on the eastern bank of the Susquehanna. The Southern members wanted the capital on the Potomac, not because it was the centre of population, but because it might become that when the West should begin to develop.* Many members considered this talk of the growth of the West as hardly worthy of serious consideration, for at that time it was, as Fisher Ames said, "an immeasurable wilderness" and "when it would be settled was past calculation." He added that "it was perfectly romantic to make this decision depend upon that circumstance. Probably it will be a century before these people will be considerable." Continuing in the same vein, he said: "Trade and manufactures will accumulate people in the Eastern states in the proportion of five to three, compared with the Southern. This disproportion, will, doubtless, continue to be much greater than I have calculated. It is actually greater at present, for the negro and negro slavery are acknowledged to be unfavorable to population, so that husbandry as well as commerce and manufactures will give more people in the Eastern than in the Southern States."† Several other places were suggested as a home for the National

government, such as some spot on the Hudson or Harrisburg, Pa., but those who opposed the Susquehanna site united in favor of the Potomac. On September 22, after a lengthy debate,* the House, by a vote of 31 to 17, passed the bill appointing a commission to select a spot on the banks of the Susquehanna, to buy lands and erect buildings.† The Senate amended the bill by inserting the words "one mile from Philadelphia," and the House wearily concurred in the amendment; but when the bill was on the point of passage, Madison called attention to the fact that no provision had been made for continuing Pennsylvania law in the new district until Congress should provide some other law. If the omission was not supplied, the new district would be without law of any kind. Madison offered an amendment remedying this defect, and upon its passage (September 28, by a vote of 31 to 24) the bill was resubmitted to the Senate‡ but Congress adjourned without taking action on it, leaving the matter to be settled at a subsequent session.§

In 1790, during the second session of the First Congress and while the debate on the assumption bill was in progress, the anti-assumptionists, as before stated, agreed to vote for the

* For the various arguments advanced, see McMaster, *United States*, vol. i., pp. 555-561.

† Hunt, *Life of Madison*, p. 195; John Adams, *Works*, vol. iii., p. 411.

‡ *Annals of Congress*, vol. i., pp. 920-927; Benton, *Abridgment*, vol. i., p. 167.

§ Hunt, *Life of Madison*, p. 196; Gay, *Life of Madison*, p. 148.

* See Madison's letters on this subject in *Madison's Works* (Congress ed.), vol. i., pp. 403, 407, 409, 411, 413, 415, 416-417, 418-419, 430, 493, 494-496, 519, 521, 522.

† Gay, *Life of Madison*, pp. 146-147.

removal of Congress to Philadelphia for fifteen years and then to the Potomac, if the Pennsylvania delegates would vote against assumption. A bill carrying this provision being introduced and passed, was rejected by the Senate, and on June 10 was again brought up for consideration in the House. By this time the above compact had become known, and the assumptionists now gained a victory by having the name Philadelphia stricken out and Baltimore inserted instead. The vote was 32 to 19.* Under the circumstances, the rules of the House precluded the possibility of re-inserting the word Philadelphia. The Pennsylvanians and their friends thereupon retaliated by throwing out the alternatives from the funding bill, offering the creditors four per cent. only and daring the assumptionists to reject. The latter had been threatening to oppose all measures for the settlement of the public debt which did not include assumption, and they now accepted the challenge by voting down the supply bill by a vote of 35 to 23.†

The New Englanders refused to compromise, threatening secession if a satisfactory measure were not passed. Hamilton endeavored to aid them, and to this end sought Jefferson's influence. The latter arranged a meeting at his home between Hamilton and some of the Southern mem-

bers at which a bargain was concluded as follows: Alexander White and Richard B. Lee, who had heretofore opposed assumption, were to change their votes and declare in its favor, in return for which Hamilton and Robert Morris undertook to secure the passage of a bill designating Philadelphia as the home of Congress for ten years, after which it should be permanently lodged on the Potomac.* On July 9 Hamilton performed his part of the agreement by securing by a majority of three, the passage of the bill to remove.† This accomplished,

* Morse, *Thomas Jefferson*, pp. 98-102; Lamb, *City of New York*, vol. ii., p. 374; Ford's ed. of *Jefferson's Writings*, vol. i., pp. 162-163; vol. v., pp. 184-185; vi., p. 172; Schouler, *United States*, vol. i., p. 154.

† The text of the act will be found in Thorpe, *Federal and State Constitutions*, vol. i., pp. 637-638; *Annals of Congress*, vol. ii., pp. 2234-2235. For the Secretary of State's sharp, and not altogether good-tempered account of the manner in which, as he says, he "was most ignorantly and innocently made to hold the candle" to Hamilton's "fiscal manoeuvre" for assuming the State debts, see *The Anas*, Ford's ed. of *Jefferson's Writings*, vol. i., p. 161 *et seq.*, vol. vi., pp. 172-174; Tucker, *Life of Jefferson*, vol. i., pp. 329-331; Irving, *Life of Washington*, vol. v., pp. 68-70. Lodge, however, in his *Alexander Hamilton*, p. 127, says "Hamilton agreed to secure votes for a Southern capital and Jefferson promised to do the same for assumption. It would be an error to treat this as a bargain or compromise between opposing factions, for it was the work of two Cabinet ministers favoring the same policy. Hamilton gained success for his great plans. Jefferson by his personal influence helped to carry through the measures of the administration of which he was a member, and obtained in return the concession of the site of the capital, which was of value to him as a Southern leader." See also Parton, *Life of Thomas Jefferson*, pp. 392-395; Hunt, *Life of Madison*, p. 197 *et seq.*; Randall, *Life of Jefferson*, vol. ii., p. 78.

* Schouler, *United States*, vol. i., p. 153. For the debate, see *Annals of Congress*, vol. ii., pp. 1660-1680; Benton, *Abridgment*, p. 242 *et seq.*

† McMaster, vol. i., p. 581.

White and Lee changed their votes, declaring themselves in favor of assumption, thereby changing the assumptionist majority. The amendment, which had previously been defeated, was now carried. Thus the State debts, amounting to \$21,500,000, were at last assumed.* The Senate passed the bill by a vote of 14 to 12, the House concurring by a vote of 34 to 28.†

In this way the State debts were finally assumed and the capital of the United States was permanently located at Washington. It must be admitted, however, that it does not tend to dignify a legislative body very much to realize that these worthy objects, important as they were, owed their success to bargaining and compromise. The journals of that time are a fair index to the thoughts of the people regarding the actions of Congress. All sorts of poems, jibes, taunts, and abusive squibbs filled the papers, and after the passage of the two bills the Anti-Federalist writers indulged in all kinds of coarse and scurrilous attacks. But on the whole, regardless of party opposition, the people were disgusted at the bargainings, the wranglings and the delays which were so costly, and members were even accused of protracting the sessions in order to secure more money (they being paid by the day).

Some said Congress ought to be paid by the job — so much for measures of a certain character, etc. Some complained also because Congress had taken nearly three weeks to determine upon a residence, the cost of debating having amounted to over \$20,000, while the cost of the removal itself would be \$40,000. And yet the Treasury was in so precarious a state that it wanted to cut off one per cent. interest.*

The plan in its perfected form was adopted toward the close of the session.† A loan of \$12,000,000, or whatever sum should be necessary to pay the arrears of interest and the first

* McMaster, vol. i., pp. 583-586.

† It may be worth noting that in November, 1790, the House of Delegates in Virginia declared this action of Congress to be unconstitutional, dangerous to the interests of the people, and highly injurious to the rights of several of the States; and that it was "intended to concentrate and perpetuate a large moneyed interest which would produce the prostration of agriculture at the feet of commerce, or a change in the present form of the Federal government, fatal to the existence of American liberty." Thus Virginia took the lead among State legislatures in censuring the acts of the general government. In the Maryland House a similar resolution was passed and then rescinded. See Hunt, *Life of Madison*, pp. 187-188; Gordy, *Political History*, vol. i., pp. 128-129; Schouler, *United States*, vol. i., p. 181. When Hamilton learned of the Virginia resolutions, his first impulse was to crush their authors by the arm of the law. He sent a copy of the resolutions to Chief Justice Jay, asking: "Ought not the collective weight of the different parts of the government to be employed in exploding the spirit they contain?" He thought that this spirit must be crushed at once or it would kill the Constitution. Jay replied that Hamilton overrated the importance of these resolutions and that the less notice of them the nation took the better. Jay, *Life of John Jay*, vol. ii., p. 202; Schouler, vol. i., p. 189.

* *United States Statutes-at-Large* (Peters' ed.), vol. i., pp. 142, 178; Dewey, *Financial History*, p. 92; *Annals of Congress*, vol. ii., pp. 2243-2251.

† *Annals of Congress*, 1st Congress, vol. ii., pp. 1712-1714.

instalment of the foreign debt, or a sufficient money to pay the whole, if possible, within fifteen years, was authorized. A new loan of the whole of the domestic debt was proposed on the following terms: two-thirds of the principal was to draw interest at the rate of 6 per cent. after January 1, 1791, and the other third was to draw the same amount of interest after 1800, while the arrears of interest were to draw 3 per cent. after January 1, 1791.* The debt drawing 6 per cent. interest was to be redeemable by payments not exceeding in one year 8 per cent on account of both principal and interest; and the 3 per cent. were made redeemable at the pleasure of the government. According to the funding act of August 4, 1790, the State debts were apportioned among the various States as follows: New Hampshire, \$300,000; Massachusetts, \$4,000,000; Rhode Island, \$200,000; Connecticut, \$1,600,000; New York, \$1,200,000; New Jersey, \$800,000; Pennsylvania, \$2,200,000; Delaware, \$200,000; Maryland, \$800,000; Virginia, \$3,500,000; North Carolina, \$2,400,000; South Carolina, \$4,000,000; Georgia, \$300,000.† The sum thus assumed was to be loaned to the United States by individuals holding certain evidences of State debts, but on somewhat different terms from

those holding evidences of domestic debt. Four-ninths was to bear interest at the rate of 6 per cent., commencing on January 1, 1792; two-ninths was to draw 6 per cent. after 1800; and the remaining three-ninths was to bear 3 per cent. interest from January, 1792.* The amount of the debt of each State assumed was to be a charge against such State in the account of the United States. A board of three commissioners was established to complete the settlement, and they were empowered to decide according to the principles of general equity. They were to debit each State with whatever advances had been made by the United States, with the interest thereon to December 31, 1789, and to credit each State for advances or disbursements made, with interest up to the same time;† and after a balance had been struck, the aggregate of all balances was to be found and apportioned among the States by the same rule as was prescribed in the Constitution for apportioning representatives and direct taxes, on the basis of the first enumeration that should be made. The balances then found due to the States were to be founded on the same terms as the rest of the domestic debt, but were not to be transferable.‡

* Bolles, *Financial History*, pp. 26-28; Dewey, *Financial History*, p. 95.

† Pitkin (vol. ii., p. 538) gives an abstract of the accounts of the respective States, for expenses incurred during the Revolution, as allowed by the commissioners, who completed the settlement of the said accounts in 1793.

‡ Bolles, *Financial History*, pp. 29-30. Accord-

* Act of August 4, 1790, chap. 34. See also Bolles, *Financial History*, p. 25; Dewey, *Financial History*, pp. 94-95.

† *Annals of Congress*, 1st Congress, 2d Session, vol. i., pp. 1000-1008; Schouler, *United States*, vol. i., p. 155.

The effect of these measures for sustaining the public credit was most salutary, and it soon became evident that prosperity was fairly within reach of the industrious citizens of the United States. "Politically considered, however," says Mr. Sparks, "the funding system had an unhappy influence. It widened the breach of parties, produced irritations, and excited animosities. Nor was it to be expected that the adversaries of the plan, and these a large minority, would really change their opinion, after the strenuous opposition they had shown, or cease from their hostility. The President expressed no sentiments on the subject while it was under debate in Congress, but he approved the act for funding the public debt, and was undoubtedly, from conviction, a decided friend to the measure."*

The country was now beginning to witness a revival in all channels of trade, nowhere more noticeable than in the customs. But though the customs officers had collected in the past year duties amounting to nearly \$2,000,000, still the revenues were not sufficient to defray the government's

expenses; and at the end of the year there was a deficit of \$825,000. On August 9, three days before Congress adjourned, the House had passed a resolution directing the Secretary of the Treasury to report on the second Monday of December "such further provisions as may, in his opinion, be necessary for establishing the public credit." This resulted in Hamilton's second Report on Public Credit dated December 13, 1790.* Hamilton recommended that Congress pass two bills: one providing an additional impost on foreign distilled spirits, with an excise on spirits distilled in the United States; and the other establishing a bank.† An excise bill was then drafted according to his ideas and on December 30, 1790, was introduced in the House. For some time thereafter a sharp and even fiery debate took place, the Southern and Western members being particularly warm in their opposition, with Jackson, of Georgia, leading the attack. In lieu of the system proposed by Hamilton, the opponents of the bill suggested an increase in the duties on imported articles; a specific duty on molasses; a direct tax; a stamp tax; a duty on newspapers; and a tax on salaries, pen-

ing to Dewey (*Financial History*, p. 93), the total amount assumed was \$18,271,786, divided as follows: New Hampshire, \$282,596; Massachusetts, \$3,981,733; Rhode Island, \$200,000; Connecticut, \$1,600,000; New York, \$1,183,717; New Jersey, \$695,203; Pennsylvania, \$777,983; Delaware, \$59,162; Maryland, \$517,491; Virginia, \$2,934,416; North Carolina, \$1,793,804; South Carolina, \$3,999,651; Georgia, \$246,030.

* *Life of Washington*, p. 428.

* The text will be found in *American State Papers, Finance*, vol. i., pp. 64-67; MacDonald, *Select Documents*, pp. 61-66; *Annals of Congress*, 1st Congress, vol. ii., pp. 2024-2030; Hamilton's ed. of *Hamilton's Works*, vol. iii., p. 95 *et seq.* See also Appendix II. at the end of the present chapter.

† McMaster, vol. ii., pp. 25-28.

sions and lawyers.* Nevertheless, despite all opposition, the bill was passed in the House January 27, by a vote of 35 to 21.† It was then amended in the Senate, but the House disagreed to the amendments and a conference committee put the bill in its final form. On March 3, the act was approved by the President.‡ This law was substantially that which had been rejected the previous year. It was concerned with distilled spirits only. On imported spirits a duty graduated according to proof, ranging from 20 to 40 cents per gallon, was laid; and an excise ranging from 9 to 20 cents per gallon was laid on spirits distilled in the United States.||

Meanwhile a bill to incorporate the Bank of the United States had been passed by the Senate, with scarcely a dissenting voice, and was sent to the House, where it was soon ordered to a third reading.§ This bill provided

* *Annals of Congress*, 1st Congress, 3d session, vol. ii., pp. 1842-1853, 1857-1861, 1869-1884; Benton, *Abridgment of Debates*, vol. i., pp. 262-268, 270-272.

† For Washington's attitude, see Lodge, *George Washington*, vol. ii., pp. 120-121.

‡ The text of the act is in *United States Statutes-at-Large*, vol. i., pp. 219-221; *Annals of Congress*, 1st Congress, 1st session, vol. ii., pp. 2320-2340. For Hamilton's report on the difficulties of enforcing the act, March 5, 1792, see *American State Papers, Finance*, vol. i., pp. 151-158. See also Bolles, *Financial History*, p. 103 *et seq.*

§ Stanwood, *Tariff Controversies*, vol. i., p. 76; Bishop, *History of Manufactures*, vol. ii., pp. 29-30.

§ Hamilton's report on a National Bank will be found in *American State Papers, Finance*, vol. i., pp. 67-76; *Annals of Congress*, vol. ii., pp. 2032-2159; MacDonald, *Select Documents*, pp. 67-76;

that the Bank should have a capital stock of \$10,000,000, divided into 25,000 shares of \$400 each. Of this capital \$2,000,000 was to be subscribed for the benefit of the United States, though not payable immediately, and \$8,000,000 by individuals. One-fourth of the latter subscriptions were to be paid in gold and silver, and three-fourths in government securities.* The Bank was to have the privilege of discounting as well as of receiving deposits, and such bills as were payable in gold and silver on demand were made receivable for the payment of all debts due the United States. The principal office of the Bank was to be at Philadelphia, and the directors were empowered to establish offices of discount and deposit only in the several States. Of the capital \$5,730,000 was reserved for the main branch, the remaining \$4,300,000 to be divided among eight branches to be established in the principal cities of the Union.† The charter was to continue in force until March 4, 1811; and the government agreed that during this period no other bank should be established by the authority of Congress. It was agreed also that no loan should be made to the United States of more than \$100,000, or to any particular State of more than \$50,000, or to any foreign prince or principality, unless

Hamilton's ed. of *Hamilton's Works*, vol. iii., p. 156 *et seq.*

* Sumner, *Life of Alexander Hamilton*, p. 163.

† Bolles, *Financial History*, pp. 128-129.

expressly authorized by a law of the United States.* The choice of directors was confined to citizens of the United States, and discount rates were not to be over 6 per cent.

Hardly had the motion of the passage been made when a strong and determined opposition sprang up under the leadership of Smith, of South Carolina, Jackson, of Georgia, Madison, Giles, Stone and others; while Ames, Boudinot, Gerry and Vining were among its most ardent advocates. The bill was quickly re-committed and the debates that ensued the following week were most spirited.†

The anticipated advantages of Hamilton's proposed bank were that it would increase the active capital of the country, would afford the government greater facilities for exchanging, collecting and borrowing for its necessities, and furnish the whole country with a circulating medium. But in the last respect the Bank did not seem to be necessary, since the mint about to begin operations would supply a Federal coinage; and even if a paper currency were desirable, it by no means followed that the government would call in private enterprise to obtain it. Furthermore, the secret political machinations of a vast moneyed power such as the Bank were

greatly to be feared. The equitable distributions of sound banks all believed to be wise and useful, but not all saw the necessity of chartering an enormous institution to swallow up the smaller ones. But, as Hamilton commanded a respectable working majority in both branches of Congress, he determined to carry his point with a rush, overcoming all opposition. The minority asked time for the consideration of so important a measure, saying that it was needless to rush such an important bill through in the last short month of an expiring Congress. But as the New England and New York members supported Hamilton, he was obdurate. There was no time to devise a substitute better adapted to our Federal institutions and therefore, being pushed to the wall, the anti-bank men fought to prevent the adoption of Hamilton's scheme.* The arguments advanced by the opposition were of two kinds. Some made the amazing objection that the Bank would be of no use, but the chief argument was that Congress did not possess the constitutional authority to pass such an act. The anti-Federalists, who declared the Bank unnecessary, took as examples the

* McMaster, vol. ii., p. 28. For a general discussion of Hamilton's plans, see Lodge, *Alexander Hamilton*, p. 99 *et seq.*

† See Benton, *Abridgment of Debates*, vol. i., pp. 272-308. See also *Annals of Congress*, 1st Congress, 3d session, vol. ii., pp. 1891-1960.

* Schouler, *United States*, vol. i., pp. 174-175; Dewey, *Financial History*, p. 99. It is worthy of mention that both Jackson and Madison called attention to the geographical separation of parties. Jackson closed his argument with the words: "Not a gentleman scarcely to the eastward of a certain line is opposed to the bank, and where is the gentleman to the southward that is for it?"—Benton, *Abridgment of Debates*, vol. i., p. 287.

four towns of Boston, New York, Philadelphia and Baltimore,* where they said half the people had nothing to put in the banks. If, therefore, a man in a pinch desired a loan upon proper security, instead of as formerly going to a merchant who would discount his notes or loan him money at a low rate of interest, he would be compelled to go to the Bank which would grind him down by extortionate discounts. They claimed that the New York and Philadelphia banks were aristocratic moneyed monopolies which encouraged usury, took coin out of circulation, and upset the regular safeguards of trade. It was now proposed, they contended, that the government set up a national monopoly on a still grander scale, whereas it was the duty of good government not to foster but to destroy monopolies.

The Bank advocates pointed out, however, that the proposed institution could do none of these objectionable things; could not hold an acre of ground save such as might be needed for its own use, or such lands as reverted to it in the form of a judgment or to satisfy a mortgage; could not own merchandise except as security for loans; could not buy a

United States bond; and far from taking money out of circulation, would increase the amount actually in circulation, as \$7,500,000 in certificates would become exchangeable for bills. Then the Anti-Federalists seized upon the argument that under the Constitution Congress had no power to create this or any other corporation. This the Federalists refuted by saying that the establishment of a bank, though the power to do so was not specifically granted by the Constitution, had been contemplated in that instrument when Congress was given authority to make all laws necessary and proper for carrying into effect the powers expressly granted to it.* The Federalists said, furthermore, that the establishment of the bank was necessary and proper, for such institutions were required in all well-regulated communities to manage finances and to attain the great ends of civil government. To the Anti-Federalists' denial that the Bank was either useful or necessary, or to those who believed the construction of the Constitution on the part of the Federalists was too broad and too dangerous to be admitted, the Federalists replied that Congress was doing numerous things every day for which no direct authority was to be found in the Constitution—such as buying up the National debt in the

* The four banks at these places had a capital of \$1,950,000. The first bank was the Bank of North America, chartered December 31, 1781, followed by the Massachusetts Bank, February 7, 1784, the Bank of New York, which commenced operations June 9, 1784, and the Maryland Bank, which was chartered in November of 1790 and started in 1791.

* Compare Gerry's speech on the bank question, Benton, *Abridgment of Debates*, vol. i., pp. 300-304.

market, giving a salary to the Vice-President, etc.*

Perceiving the weakness of their position, the Anti-Federalists tried to find other grounds for objecting. They said that the States had ample authority to establish and to prevent the establishment of banks, but could not maintain State banks in opposition to the National Bank. Manifestly, the latter was unconstitutional, for, unless expressly allowed by the Constitution, the rights of the States could not be curtailed.† They claimed also that by Article I, Section 9, Paragraph 5 of the Constitution, Congress was prohibited from favoring any particular place, yet the place where the headquarters of the bank should be located would have an advantage over all others.‡ Nevertheless, and in spite of all opposition, the bill was passed February 8, 1791, by a vote of 39 to 20. The principal reasons given for its adoption were "that it would be conducive to the successful conducting of the national finances, give facility to the obtaining of loans for the use of the government, in sudden emergencies," and that it would also "be productive of considerable advantage to trade and industry in general." The

bill was not presented to the President until February 14, and received his signature February 25.*

There was almost as much diversity of opinion among the members of the Cabinet as there was in the House. Jefferson and Randolph opposed the establishment of the Bank,† while Hamilton and Knox advocated it.‡ Washington requested each member of the Cabinet to state his views in writing, and, after carefully perusing these opinions and deliberating upon the subject, he affixed his signature to the act.¶ When he signed the bill he was not fully convinced as to the justice of either argument, but signed it on the principle that where opinion was equally divided, he would sup-

* The text of the act will be found in *United States Statutes-at-Large*, vol. i., pp. 191-196; *Annals of Congress*, 1st Congress, 3d session, vol. ii., pp. 2312-2317.

† Jefferson's opinion of February 15, 1791, is probably the best concise statement of the "strict constructionist" view of the powers of the Federal government. See Jefferson's *Works*, vol. vii., pp. 555-561; Ford's ed. of *Jefferson's Writings*, vol. v., pp. 284-289; also MacDonald, *Select Documents*, pp. 76-81.

‡ Hamilton's refutation (February 23, 1791) of the arguments of Jefferson and Randolph will be found in Hamilton's *Works*, vol. iv., pp. 104-138; MacDonald, *Select Documents*, pp. 81-98.

¶ Lodge, *George Washington*, vol. ii., pp. 107-109; McMaster, vol. ii., pp. 35-37; Gordy, *Political History*, vol. i., p. 135 *et seq.* See also Matthew S. Clarke and David A. Hall, *Legislative and Documentary History of the Bank of the United States*, pp. 15-112; W. G. Sumner, *History of Banking in the United States*, vol. i., pp. 22-57; Horace White, *Money and Banking*, pp. 258-262; C. A. Conant, *History of Modern Banks of Issue*, pp. 288-294; *Accounts of the First Bank*, in *Quarterly Journal of Economics*, vol. vi., pp. 471-474; C. F. Dunbar, in *Quarterly Journal of Economics*, vol. iii., pp. 54-58.

* Marshall gives a careful resumé of the arguments on both sides of this important constitutional question. See also Tucker, *Life of Jefferson*, vol. i., pp. 341-346; McMaster, vol. ii., pp. 30-32; Bolles, *Financial History*, chap. vii.; White, *Money and Banking*, bk. ii., chap. iv.

† Benton, *Abridgment of Debates*, vol. i., pp. 275, 285.

‡ Von Holst, *Constitutional and Political History*, vol. i., p. 106.

port the officer in whose department the business under discussion fell.* In speaking of the influence of political affiliation on the judgment of men, Marshall says that "this measure made a deep impression on many members of the legislature, and contributed, not inconsiderably, to the complete organization of those distinct and visible parties, which, in their long and dubious conflict for power, have since shaken the United States to their centre."†

Scarcely a moment was lost in putting the Bank into operation, and July 4, 1791, was the day set when the books would be opened for subscription at Philadelphia. The government took 5,000 shares, and the remaining 20,000 were offered to the public. It was thought by the most sanguine that sev-

eral weeks would pass before all the shares could be allotted to purchasers, but scarcely a half hour had passed from the time the doors were opened on the morning of July 4 before subscriptions for 24,000 shares had been offered. The books were then closed, and the committee in charge held a meeting in order to determine what should be done with the bids for the extra 4,000 shares. Only a few payments had been made, and it was determined to ask each subscriber to accept a pro rata reduction upon his subscription, so that every one who had made a bid might secure some stock.*

This arrangement was made, but immediately a clamor arose among those who were unfortunate enough not to be numbered among the successful bidders, or those who, living in distant cities, had not been able to get their bids in on time.† Hence they denounced the Bank as a job put up in the interests of the Philadelphians,‡

* Mason, *Veto Power, Harvard Historical Monographs*, no. i., p. 25. Madison says that Washington was in great doubt as to the constitutionality of the bill, and that at his request he prepared a draft of a veto message, in case the President finally decided to veto the bill. See Rives, *Life of Madison*, vol. iii., p. 171.

† *Life of Washington*, vol. ii., p. 206. Pitkin, writing in 1827, is also worth quoting: "Experience has proved the expediency, if not the absolute necessity, of an institution of this kind, to enable the government to manage its great concerns; and has likewise evinced the profound, and almost unerring judgment of that great man, who, as chief magistrate, gave it his sanction. Though this question, for many years afterwards, agitated the public mind, and divided the national councils; yet the late establishment of a national bank (1816), with a capital of \$35,000,000, with the approbation and consent of those, heretofore opposed to it on constitutional grounds, must rescue the names of the authors of the first bank, from the reproach then cast upon them, for a violation of the Constitution; and has, it is presumed, put the question at rest."

* McMaster, vol. ii., pp. 37-38. Various reports relating to the early operations of the bank are in *American State Papers, Finance*, vol. i. p. 349.

† See Ford's ed. of *Jefferson's Writings*, vol. v.,

‡ When Jefferson and Madison saw that among those selected for directors of the bank were members of Congress who had most enthusiastically supported the bank; when they saw that Hamilton's financial policy had put him at the head of a party which was willing to follow him almost without question; and because they knew that Hamilton believed it was only by appealing to pecuniary interests that the great majority of men could be induced to support measures in themselves right and proper; it was only natural that they should think his whole purpose was to create friends for the government and especially

but it was shown that more than half the bank scrip was owned in Massachusetts and New York, very little of it having been bought in the South. In the face of the wild speculation in the stock that now took place, (particularly at Boston, New York, and Philadelphia) the grumbling gradually gave way. All classes began to gamble in the scrip, with the result that merchants and tradespeople began to complain of slow trade, this gambling interfering with general business conditions.* By August of the same

year the scrip was much above par at New York, where on the 10th it reached 280, the next day fell to 205, rose again on the 12th to 220, on the 13th sold at 206 to 212, on the 16th at 160 to 172, and on the 26th averaged 200. In Philadelphia the same scrip sold on the 12th at 141 to 161, and on the 14th at 307 to 312, and, if forty-five days' credit were given, at 315.* The high prices induced the possessors of the stock to sell, and so much was placed on the market that the prices quickly dropped, thereby causing considerable loss to certain speculators who had purchased in the hope of higher prices. "Every day exhibit[ed] new victims, and open[ed] new scenes of usury, knavery, and folly."† Though they railed at the government, the public had little sympathy for the speculators, who were forced to comfort themselves with the dubious consolation that they might have lost more. In October the first choice of directors of the Bank was made, and with no amiable feel-

to put at the disposal of the Secretary of the Treasury a party which would be a willing tool in promoting his anti-republican schemes. On July 10, 1791, Madison wrote to Jefferson from New York as follows: "The bank shares have risen as much in the market here as in Philadelphia. It seems admitted on all hands now that the plan of the institution gives a moral certainty of gain to the subscribers, with scarce a physical possibility of loss. The subscriptions are, consequently, a mere scramble for so much public plunder, which will be engrossed by those already loaded with the spoils of individuals. * * * Of all the shameful circumstances of this business, it is among the greatest to see the members of the legislature who were most active in pushing this job openly grasping at its emoluments. Schuyler [Hamilton's father-in-law] is to be put at the head of the directors, if the weight of the New York subscribers can effect it. * * * Nothing new is talked of here. In fact, stock-jobbing drowns every other subject. The Coffee-house is an eternal buzz with the Gamblers." A month later (August 8) he wrote to Jefferson: "The stock-jobbers will become the Pretorian band of the government, at once its tool and its tyrant; bribed by its largesses, and overawing it by clamors and combinations."—*Madison's Works* (Congress ed.), vol. i., pp. 538, 541.

* Writing to Edward Rutledge August 29, 1791. Jefferson said: "What do you think of this scrippomany? Ships are lying idle at the wharfs, buildings are stopped, capitals withdrawn from commerce, manufactures, arts & agriculture, to be employed in gambling; and the tide of public

prosperity almost unparalleled in any country is arrested in its course, and suppressed by the rage of getting rich in a day. No mortal can tell when this will stop, for the spirit of gambling when once it has seized a subject is incurable. The taylor who has made thousands in one day, tho' he has lost them the next, can never again be content with the slow & moderate earnings of his needle."—Ford's ed. of *Jefferson's Writings*, vol. v., pp. 375-376; Parton, *Life of Thomas Jefferson*, pp. 396-397. See also his letter of April 19, 1792, to Thomas M. Randolph, in Ford, vol. v., pp. 508-510.

* McMaster, vol. ii., pp. 39-41.

† Madison to Pendleton, April 9, 1792, *Madison's Works* (Congress ed.), vol. i., p. 552, also to Henry Lee, April 15, *ibid.*, p. 553.

ings the anti-bank men beheld the election of Rufus King, Fisher Ames, William Smith, and John Lawrence, — all men who had helped the bank bill through Congress. George Cabot, the new Massachusetts Senator, was offered the presidency, but declined, and Thomas Willing, of Philadelphia, formerly president of the Bank of North America, was chosen instead.*

On October 24, 1791, the first session of the Second Congress convened. During the summer a new House had been elected and a third of the Senators also were new, owing to the retirement of those who had previously held office. To the House came General Artemus Ward, William Findley, and Anthony Wayne, — the last sent by Georgia to take the place of Jackson. But Jackson protested the election of Wayne and made out so strong a case that finally Wayne was unseated.† In the Senate were several new members, Roger Sherman, George Cabot, and Aaron Burr, — the last replacing Philip Schuyler. Jonathan Trumbull, of Connecticut, was chosen Speaker of the House.

On the 25th Washington made his third annual address to Congress.‡ After speaking of the prosperity of the country, he said:

"Your own observations in your respective districts will have satisfied you of the progressive

* Schouler, *United States*, vol. i., p. 198; Bolles, *Financial History*, p. 129.

† McMaster, vol. ii., pp. 47-48. See also the index to *Annals of Congress*, under "Protested Elections."

‡ Richardson, *Messages and Papers*, vol. i., p. 103 *et seq.*

state of agriculture, manufactures, commerce, and navigation. In tracing their causes you will have remarked with particular pleasure the happy effects of that revival of confidence, public as well as private, to which the Constitution and laws of the United States have so eminently contributed; and you will have observed with no less interest new and decisive proofs of the increasing reputation and credit of the nation."

He then went on to speak of the Indian war and the measures taken for the "defence and security of the Western frontier." He said that, in order "to advance the happiness of the Indians and to attach them firmly to the United States," it was necessary that justice be impartially administered, the mode of alienating their lands be properly defined and regulated, commerce with them be promoted "under regulations tending to secure an equitable deportment toward them," and that laws should be passed to inflict adequate punishment upon those who infringed the treaties. He said "that a system corresponding with the mild principles of religion and philanthropy, toward an unenlightened race of men whose happiness materially depends on the conduct of the United States, would be as honorable to the national character as conformable to the dictates of sound policy." He spoke also of the progress made on the new capital city, the completion of the first census, and the negotiation of two loans of 2,500,000 and 6,000,000 florins, respectively. He referred to the Senate for ratification two treaties with the Cherokee Indians and the Six Nations, concluding his message by calling the atten-

tion of the legislative body to the needs of "the militia, the post office and post roads, the mint, weights and measures, a provision for the sale of the vacant lands of the United States."* Though not expressing themselves in as warm terms as formerly, the answers of the two Houses showed sincere regard and esteem for Washington.†

The affairs of the post-office were now taken under consideration.‡ Samuel Osgood had resigned the office of Postmaster-General, and Timothy Pickering had been appointed his successor. The time consumed in transporting mail was exasperating,|| and certain classes of mail were excluded, or else carried at the pleasure of the postmaster and the post-riders. Washington therefore desired to hasten the mails, and requested Jefferson to confer with Pickering as to the best methods to accomplish this object. Washington desired that letters should travel 100 miles in 24 hours, and in order to reduce expenses planned to have all stage wagons of the post-office carry also passengers. A motion to that effect was made in Congress, but it was feared that this course would infringe on the rights

of the States, and the motion was lost. However, an act was passed and approved February 20, 1792, fixing the rates of postage, allowing the franking privilege to Congressmen and heads of departments, and making newspapers mail matter. By this act the postage on a letter for any distance up to 30 miles was 6 cents; from 30 to 60 miles, 8 cents; 60 to 100 miles, 10 cents; 100 to 150 miles, 12½ cents; from 150 to 200 miles, 15 cents; from 200 to 250 miles, 17 cents; from 250 to 350 miles, 20 cents; from 350 to 450 miles, 22 cents; and above 450 miles, 25 cents. These rates applied to single letters, i. e., letters written on but a single sheet of paper, no matter how large or small (two sheets counting as a double letter, etc.) The charge for newspapers was 1 cent per paper for any distance up to 100 miles, and a cent and a half above that.*

The tax on newspapers was opposed as being a tax on knowledge, as being too high, and as "an insidious forerunner of something worse,"† while the franking privilege was characterized as an aristocratic distinction; but the opposition was feeble and the tax soon came to be seen in the light of a good revenue producer. From October 1, 1789, to June 30, 1791, the gross revenues were \$71,295.93; from the latter date until De-

* Richardson, *Messages and Papers*, vol. i., p. 107.

† *Ibid.*, pp. 108-110.

‡ In 1776 there were 28 post-offices; 75 in 1790; 264 in 1792; and 453 in 1795.—McMaster, vol. ii., pp. 58-59.

|| It required about 29 hours to transport the mail bags from Philadelphia to New York—a distance of 90 miles—and about the same time from Philadelphia to Baltimore.

* *Annals of Congress*, 2d Congress, 1st session, pp. 1333-1341; McMaster, vol. ii., pp. 60-61.

† Madison to Jefferson, June 12, 1792, Madison's *Works* (Congress ed.), vol. i., p. 561. See also letter to Pendleton, December 6, 1792, *ibid.*, vol. i., p. 572.

ember 31, 1792, they were \$92,988.40; for the year 1793 they were \$103,883.19; and during 1794 they had reached the unprecedented sum of \$129,185.87.* This act expired by limitation on June 1, 1794, when a few changes were made. The postage on a single newspaper destined for any point in the State wherein it was issued was to be only one cent, and, when the size of the mail and the methods of conveyance permitted, magazines and pamphlets were to be taken at a charge of one cent a sheet for the first 50 miles, and one and one half cents for any distance between 50 and 100 miles, and ten cents above 100 miles. It was provided also that carriers were to be employed in the large cities, who were to be paid at the rate of two cents for every letter delivered.†

Meanwhile, on December 12, 1791, Washington submitted to Congress St. Clair's report of the misfortune that befell his army in the West, remarking at the same time that the loss might be "repaired without great difficulty, excepting as to the brave men who had fallen on the occasion, and who are a subject of public as well as private regret."‡ The grumblers soundly censured the Secretary of War and the entire administration for their conduct of affairs, but no

blame seemed to attach to St. Clair, who in his condition of health should never have been sent out on the unfortunate expedition. Congress was now called upon to consider a bill for the protection of the frontiers, one section of which provided for three additional regiments of infantry and a squadron of cavalry, to the total number of 3,040 men, thus raising the standing army of the United States to 5,168 men. A motion was made to strike out this provision, and in the debate which followed party feeling began to display itself quite freely. Those who opposed the Indian war claimed that a single regiment cost \$100,000, two regiments \$300,000; and if the proposed increase were made, the total cost of the army would be \$1,250,000. They said that the Indian war was unjust, and even if it were not, it was unnecessary to employ 5,000 men to conquer 1,200 Indians, when Washington had beaten the English with an army which at one time did not number more than 10,000 effectives. At any rate, the Treasury could not, it was said, afford the drain, nor would the country stand for any more taxes. The opponents of the measure were reminded, however, that the army was to protect a long frontier, which required a large number of men; that the Indians were devastating the frontier settlements; and that this was sufficient justification for carrying on the war against them. When the motion to strike out this section came to a vote,

* Gallatin, *Sketch of the Finances of the United States*, p. 179.

† McMaster, vol. ii., pp. 66-67.

‡ Richardson, *Messages and Papers*, vol. i., p. 113.

it was lost by 18 yeas to 34 nays, and ten days later the original bill was passed.* In the midst of this agitation St. Clair resigned, and the position of commander-in-chief of the army was offered to Anthony Wayne, who accepted.†

On December 5, 1791, Hamilton rendered his report on manufactures, "the strongest presentation of the case for protection which has been made by any American statesman."‡ In his address to Congress, January 8, 1790, Washington had recommended early provision for the defence of the country, "to which end a uniform and well-digested plan is requisite; and their safety and interest require that they should promote such manufactures as tend to render them independent of others for essential, particularly military, supplies."|| On January 15 this part of the address was referred by the House to the Secretary of the Treasury, with instructions to prepare a plan in accordance with the recommendations of the President.§ This resulted in the report above mentioned.¶ Though the

President had said that the revenues were adequate for all necessities, Hamilton offered to recommend that the tariff be revised, or else that, in the interests of native manufactures, bounties be bestowed. The report was committed to the Committee of the Whole in January of 1792, but, much to Hamilton's mortification, went over without action. Basing his arguments upon the "general welfare" clause of the Constitution, Hamilton argued, under color of giving bounties to manufacturers, that Congress might take under its own management everything it deemed to be for the public welfare, provided only it were susceptible of the application of money. He said: "It is therefore of necessity left to the discretion of the national legislature to pronounce upon the objects which concern the general welfare, and for which, under that description, an appropriation of money is requisite and proper." Though he limited this general discretion to the application of money, and very vaguely indicated some restrictions, the tenor of his report was to show that the Federal government possessed plenary and almost unlimited powers of raising money.* One of the cardinal features of his report was the recommendation that American industries be protected — by a system of bounties in prefer-

* *Annals of Congress*, 2d Congress, 1st session, pp. 1343-1346; McMaster, vol. ii., pp. 69-71.

† Stillé. *Wayne and the Pennsylvania Line*, pp. 314-315.

‡ Bishop says: "It well-nigh exhausted the arguments in defence of manufactures, and its principles and logic have formed a common resource for later reasoning on the same subject."—*History of Manufactures*, vol. ii., p. 33.

|| Richardson. *Messages and Papers*, vol. i., p. 65.

§ Stanwood, *Tariff Controversies*, vol. i., pp. 76-77.

¶ The text will be found in *American State Papers, Finance*, vol. i., pp. 123-144. See also

MacDonald, *Select Documents*, pp. 98-112; *Annals of Congress*, 2d Congress, 1st session, pp. 971-1034; Hamilton's *Works*, vol. iii., pp. 294-416.

* Schouler, *United States*, vol. i., p. 204.

ence to prohibitive duties. He recommended that all duties on imported cotton, as a raw material of manufacture, be repealed. He then enumerated a long list of industries which should be protected, thereby increasing his influence with those citizens whose interests he so ably championed.*

But Hamilton's report served one practical purpose. Unexpected tidings of reverses had been received from the western country, and, as the increased expenses of continuing the Indian campaign would require additional means, Hamilton was requested to suggest the best method of raising the necessary money. Though warmly opposed, this proposition was passed by a vote of 31 to 27.† This resulted in Hamilton's report of March 16, 1792, wherein, instead of advocating a loan or the sale of the Bank stock possessed by the government, he recommended that duties on imports be increased.‡ This report was referred to a committee, of which Fitzsimons was chairman, and on April 11 a bill embodying Hamilton's recommendations was reported. On the 17th this bill was taken under consideration by

the House, and was debated until the 21st, when it was passed by a vote of 37 to 20. The Senate made some minor amendments and, on May 2, 1792, after an agreement had been reached by the two Houses, the act was approved.* The debate on this bill was not fully reported. After discussion, a motion was carried to increase the duty on hemp from 54 to \$1 a hundredweight and to add 75 cents a hundredweight to the duty on cordage. Hamilton had advocated placing cotton on the free list. The duty was favored by all the Southern members, but opposed by those from the North. When the final question came up, Page, of Virginia, opposed its passage on the ground that it was not a bill to raise money for the protection of the frontiers. "If the bill were what its title says it is, I should be the last man in the House to vote against it. * * * It is not a bill for the protection of the frontiers, but for the encouragement of certain manufactures and of the fisheries, and for the increase of the sinking fund." Nevertheless, as the occasion had arisen to increase the tariff, the opportunity was grasped to adopt Hamilton's recommendations of protective duties; and the members from various sections, who thought their local interests not sufficiently protected, wanted to extend the system as much

* Stanwood (*Tariff Controversies*, vol. i., pp. 77-104) discusses this report at length, as do Bishop, *History of Manufactures*, vol. ii., pp. 34-43; Thompson, *History of the Protective Tariff*, pp. 77-83; Coman, *Industrial History of the United States*, pp. 144-146; O. L. Elliott, *The Tariff Controversy*, pp. 93-112.

† Stanwood, *Tariff Controversies*, vol. i., pp. 104-105.

‡ For text, see *American State Papers, Finance*, vol. i., pp. 158-161.

* *United States Statutes-at-Large*, vol. i., pp. 259-263; *Annals of Congress*, 2d Congress, 1st session, pp. 1364-1370.

as circumstances would allow.* Under this act the President was given authority to borrow from the Bank until such time as the new duties should be collected.† To offset the protective features of the bill, Congress reduced the excise on distilled spirits, so as to make it more acceptable to the inhabitants of western Pennsylvania and North Carolina.‡ Complaints had been made that the excise contravened private rights by subjecting citizens to an odious search, by oppressing them with penalties, and by interfering with their business generally. In a report of March 5, 1792, Hamilton defended the act in detail and in principle, but recommended substantially the same alterations that Congress subsequently (Act May 8, 1792, c. 32) agreed upon. The old colonial bounty to fishermen was also restored.||

The need of a legal money standard had been realized during the days of the Confederation, and we have seen that several plans had been proposed, though none was ever perfected. When

the new government was established, Hamilton was directed to submit a plan for the creation of a mint.* His report was presented to Congress on January 28, 1791, during the first session of the Second Congress. In this report he treats the subject under the following heads: the nature of the money mint; the ratio between gold and silver; the proportion and composition of the alloy in each kind; the number, denominations, sizes and devices of the coins; whether the expenses of coining ought to be borne by the government or be deducted from the material itself; and whether foreign coins ought to pass current, and if so, at what rate and for how long.† Jefferson, too, submitted a plan for establishing uniformity in the currency, weights and measures of the country. He proposed a new coinage differing in value from the dollars then in circulation, suggesting that five grains of silver be added to the proper weight of the dollar without a proportional increase in its legal value. But this was too radical a change to be adopted.‡ In 1792 Congress passed an act establishing a mint || at which gold, silver and cop-

* Stanwood, *Tariff Controversies*, vol. i., pp. 106-108.

† McMaster, vol. ii., p. 72.

‡ The highest rate was 25 cents and the lowest 7 cents per gallon. The owners of small country stills of less capacity than 400 gallons were to pay 54 cents per gallon yearly on the capacity of their stills, or, if they preferred, 7 cents per gallon on the product, or, 10 cents monthly upon the capacity of the still, with the privilege of taking out a license for one month instead of a year.—Bishop, *History of Manufactures*, vol. ii., p. 45.

|| Schouler, *United States*, vol. i., p. 205; *Annals of Congress*, 2d Congress, 1st session, pp. 584-589 and text on pp. 1374-1379.

* *Annals of Congress*, vol. ii., p. 1530.

† See his *Works*, vol. iii., p. 149; *American State Papers, Finance*, vol. i., pp. 91-107; *Annals of Congress*, 2d Congress, 1st session, pp. 2060-2086. For a discussion of his report, see Bolles, *Financial History*, vol. i., pp. 157-159; D. K. Watson, *History of American Coinage*, p. 33 *et seq.*

‡ For the complete report, see *American State Papers, Miscellaneous*, vol. i., pp. 13-20.

|| Act April 2, 2d Congress, 1st session, chap. xvi.; *Annals of Congress*, 2d Congress, 1st session, pp. 69-74, 486-490, 1350-1356; *United States*

per coins were to be made. The gold coins were to be the eagle, of the value of 10 dollars or units, and to contain $247\frac{7}{8}$ grains of pure or 270 grains of standard gold, the half-eagle and the quarter-eagle, in proportion; the silver coins were to be the dollar or unit, of the value of the Spanish milled dollar and to contain $371\frac{1}{4}$ grains of pure silver or 416 of standard silver,* the half-dollar, quarter-dollar, dime and half-dime; the copper coins were to be the cent, of the value of one-hundredth part of a dollar and to contain 11 pwt. of copper, and the half-cent.† The ratio between gold and silver was fixed at 15 to 1.‡ The standard for gold coins was eleven parts fine to one part alloy. The alloy was to be composed of silver and copper, the proportion of silver not exceeding one-half. The standard fixed for sil-

ver coins was 1485 parts fine to 179 parts alloy, which was to be composed wholly of copper. Individuals could have gold and silver bullions coined free of charge; the coins so made were to be legal tender. Penalties were prescribed for debasing them, and the money of account was to be expressed in dollars. The control of the mint was at first given to the State Department, but before his retirement from office Hamilton recommended that it be placed in charge of the Treasury Department, which advice was followed.* When the bill came from the Senate, the tenth section provided that the gold and silver coins should be stamped on the obverse side with the figure of an eagle and the legend "United States of America," and on the reverse side the head of the President, with his name and the order of Presidential succession. A cry of monarchy was immediately raised in the House, and, to satisfy the Republicans, the device was changed to one "emblematic of Liberty," and bearing the legend "Liberty." The Senate concurring in this amendment, the bill was passed.† As the country was sorely in need of small change, a separate act was passed May 8, 1792, pro-

Statutes-at-Large, vol. i., p. 246. The bill was reported by Robert Morris, March 2, 1792. Watson, *History of American Coinage*, p. 52; Benton, *Abridgment of Debates*, vol. i., pp. 371-373.

* Linderman says that Hamilton "in determining the quantity of fine silver for the dollar, did not take the lawful standard of the Spanish dollar of any particular issue, nor the average of the different issues, as his guide, but the actual average content of fine silver in the Spanish dollars then in circulation; which coin had for many years previously been, as it was then, the standard by which their moneys were generally measured, and in which contracts and money obligations in this country were discharged."—*Money and Legal Tender*, p. 25.

† Dewey, *Financial History*, pp. 103-104; Bolles, *Financial History*, pp. 159-160. See also D. K. Watson, *History of American Coinage*, pp. 54-58; J. L. Laughlin, *Bimetallism in the United States*, pp. 13-24, 227-228; Linderman, *Money and Legal Tender*, pp. 15-27.

‡ Watson, *History of American Coinage*, p. 57; White, *Money and Banking*, p. 40.

* Bolles, *Financial History*, pp. 160-161. See his letter quoted in Watson, *History of American Coinage*, pp. 69-71.

† *Annals of Congress*, 2d Congress, 1st session, pp. 483-486; Benton, *Abridgment of Debates*, vol. i., p. 371. See also Madison's letter of March 28, 1792, quoted in Watson, *History of American Coinage*, pp. 59-60; also pp. 208-210.

viding for the immediate coinage of 150 tons of copper.*

The country was now in excellent condition; money was plentiful, and on every hand were unmistakable evidences of prosperity. People were eager to invest; thousands of dollars were laid out in turnpikes, bridges, and canals, and all manner of internal improvements were projected, the favorite being the canal, plans for several of which were under way in every State. The Society for Promoting the Improvement of Roads and Inland Navigation in the State of Pennsylvania projected three canals, one along the banks of the Brandywine, another to connect the waters of the Schuylkill and the Delaware, and a third to connect the Schuylkill and the Susquehanna. At Boston the Middlesex canal was planned and finished in 1803, and at Worcester a canal to connect the city with the sea was projected. Another was planned at South Hadley. Still others were to pass through the dismal swamp to take water from the Crum Creek, to connect the Cooper and the Santee rivers, etc. In New York, the Northern Navigation Company and the Western Navigation Company was formed — the former to run a canal from Troy, via Lansingburgh and Fort Edward, to Lake Champlain, and the latter to run a

canal from Schenectady to Ontario or Seneca lake.*

Anthracite coal had already been discovered in the Manch Chunk mountains of Pennsylvania, and the Lehigh Coal Mine Company was organized to develop the mines.† This company, formed without a charter, purchased the land on Summit Hill, where the coal was first seen, and also took up 10,000 acres under State warrant. The company started operations, but wood was then far too plentiful and too cheap to induce people to burn coal. Moreover, the lack of roads to the mines and the impossibility of navigating streams added to the difficulty of mining the coal, and with these almost insurmountable obstacles, the company soon abandoned the enterprise.‡

Occasional failures and losses did not, of course, hinder speculation, but rather seemed to whet the appetite to retrieve losses by further speculation. Stock and scrip were the principal mediums of gambling, the list at first including only the three kinds of government scrip and the shares of a few

* McMaster, vol. ii., pp. 74-77. See also Bishop, *History of Manufactures*, vol. ii., *passim*.

† Bishop, *History of Manufactures*, vol. ii., p. 46.

‡ Sharpless, *Two Centuries of Pennsylvania History*, pp. 236-237. Writing to Edmund Pendleton, July 24, 1791, Jefferson says: "As yet the delirium of speculation is too strong to admit sober reflection. It remains to be seen whether in a country whose capital is too small to carry on its own commerce, to establish manufactures, erect buildings, etc., such sums should have been withdrawn from these useful pursuits to be employed in gambling."—Ford's ed. of Jefferson's *Writings*, vol. v., p. 357.

* *Annals of Congress*, 2d Congress, 1st session, pp. 1387-1388.

canal companies, one or two turnpike companies, and six banks. But soon other names were added and all manner of corporations—land companies, bridge companies, banks, population companies, etc.,—put out scrip, and their stock was eagerly absorbed by the public.* Tontine and insurance associations asked for acts of incorporation, but the great majority of the charters applied for were for banks. “Scripophobia” had gained a strong hold upon the people; men gambled recklessly in bank scrip and government securities, and so feverish did the speculation become that sober people stood aghast and bewildered. Banks soared like soap-bubbles, one of the most foolish being the “Million Bank of the State of New York.” A ring of speculators, among whom was Hamilton’s late assistant, Duer (who had resigned in 1790), hovered about the Treasury to pick up bits of inside information for speculative purposes. When Hamilton hinted that the deferred debt would be taken up, these speculators began to buy in the certificates wherever they could be found.† Hamilton had observed this tendency with dismay, and, knowing that a crash would soon come, gave warning to some of the most prominent speculators; but this was not heeded.‡ During the first months of 1792 the market began to

turn, and many of the speculators saw ruin staring them in the face. Duer became insolvent and was thrown into jail by his creditors; others of his ring fled to New Jersey; and failure after failure occurred. Hamilton endeavored to stem the tide of adversity by buying bonds from the public so as to relieve the money market; but his resources were small, and in a short time bank stock had fallen from 120 to 74, and government six’s from 130 to 96.* The public as well as a large body of the speculators began to howl against those they thought responsible for the bubble, accusing even Hamilton of complicity in the matter. Probably Hamilton had no corrupt connection with these schemes, but his actions certainly were indiscreet, to say the least. Now at the pinnacle of his fame and power, Hamilton looked not only to the country’s general enrichment, but in particular to the enrichment of the moneyed classes and the New York capitalists, whom, by the insidious use of money, he hoped to draw closer. Those agents through whom he was effecting his loans were kept in good humor by *douceurs*, subsidies and commissions. While he refused Treasury information to outsiders, he did not hesitate to use his own confidential information to save Duer and his personal friends from ruin. He sent out secret orders for purchasing debt certificates

* McMaster, vol. ii., pp. 79–82.

† Schouler, *United States*, vol. i., pp. 216–217.

‡ Hamilton’s ed. of *Hamilton’s Works*, vol. v., p. 478.

* Hamilton’s ed. of *Hamilton’s Works*, vol. v., pp. 477, 480, 491, 498, 501–502, 505.

in advance of official authorization, which ought first to have been procured. He allowed the president of the bank where he kept his private account to be "the dispenser of his benevolence," promising that, if it would loan money to a manufacturing company recently established through Hamilton's influence for his friends, it should suffer no diminution of "pecuniary facilities." With Hamilton thus feathering the nests of his favorites, public suspicion naturally turned against him, though there was no tangible evidence of incrimination. But, as Schouler says, Hamilton was now beginning to show unmistakable symptoms of the disorder which begets such a nature in high station—the "gradual and imperceptible dry-rot of virtue." * The cry now resounded throughout the country that "national-stock-jobbing, monarchy-jobbing, bank-jobbing, aristocracy-jobbing," etc., were prevalent; that the cities lived in luxury while the country suffered poverty; and that the public councils reeked with corruption. Abuse was hurled anew at the Vice-President for his *Davila* and at the Secretary of War for the St. Clair disaster; but Hamilton especially was deluged with torrents of invective for his "corrupt squadron," and for his reports "dangerous to liberty."

On November 5, 1792, the second session of the Second Congress convened. In his fourth annual message

Washington referred to the continuance of the Indian hostilities in the West, gave a general account of the measures which had been taken to stop the destructive incursions of the Indians, and suggested that a plan be formed for carrying on intercourse with the red men. After speaking of the resistance to the collection of duties on distilled spirits, and noticing the judiciary, the mint, post-office regulations, etc., the President said: "I entertain a strong hope that the state of the national finances is now sufficiently matured to enable you to enter into a systematic and effectual arrangement for the regular redemption and discharge of the public debt, according to the right which has been reserved to the government. No measure can be more desirable, whether viewed with an eye to its intrinsic importance, or to the general sentiments and wish of the nation." *

When the matter of finances was taken up in the House, it was seen that party feeling had increased rather than diminished. When a motion was introduced requesting the Secretaries of the Treasury and of War to attend the House and give information regarding affairs connected with their departments, severe denunciations were poured forth against the unconstitutionality of subjecting the Representatives to the control of the heads of the executive depart-

* Richardson, *Messages and Papers*, vol. i., pp. 125-129.

* Schouler, *United States*, vol. i., pp. 218-219.

ments. When a motion was made requesting Hamilton to report a plan for redeeming the public debt, the contest was renewed. Madison opposed it, saying it was not a plan that the House wanted, but information from which the House itself could formulate a plan. He said the House, if it possessed the necessary information, was perfectly capable of conserving the nation's interests without being told by any one man what should be done. The plan of having the Secretary formulate a scheme was, he said, taking away the responsibility of the elected representatives of the people and placing it upon the shoulders of one man not elected by the people nor subject to their control. At any rate, the Secretary then in office did not give facts or figures; but, in order to win advocates for his methods, his reports were made to read like Adam Smith's *Wealth of Nations*. Nevertheless, on a vote the resolution was passed by 31 ayes against 25 nays.*

According to Hamilton's report, November 30, 1792, the expenses incident to the Indian war made it absolutely impossible to rely on existing revenues to meet regular interest and the payment of the annual instalments of the debt, unless one of two courses were followed: either negotiating new loans under existing pledges at lower rates of interest or

laying an additional tax. Preferring the latter course, he proposed to extend the internal taxes on horses and carriages. To pay the loan of \$2,000,000, now running at 6 per cent., which the Bank had advanced to the government, Hamilton proposed to borrow the sum at a lower rate of interest and then to appropriate part of each dividend on the stock to pay the interest as it should accrue.* Consideration of this report was deferred on various grounds, and a motion to reduce the military establishment was substituted, but on January 5, 1793, after a long and earnest debate, this motion was rejected.† A bill in accordance with the Secretary's views was finally introduced, but it was objected that there was bank favoritism at the bottom of it. Giles suggested that, instead of borrowing any more money, the government sell its bank stock—a suggestion which so alarmed the bank men that they allowed the substitution of a bill appropriating no more than the instalment of the \$2,000,000 actually due.‡ But the House took no action on the plan of increasing the internal taxes. Before the House could take any action whatever regarding either of the Secretary's plans, consideration of

* *American State Papers, Finance*, vol. i., pp. 176-180; *Annals of Congress*, 2d Congress, 2d session, pp. 1162-1174.

† See Benton, *Abridgment of Debates*, vol. i., pp. 398-415; *Annals of Congress*, 2d Congress, 2d session, pp. 750, 762-768, 773-802.

‡ Act of March 2, 1793, c. 25; *Annals of Congress*, 2d Congress, 2d session, p. 1452. See also pp. 755-759.

* *Annals of Congress*, 2d Congress, 2d session, pp. 695-701, 703-708, 711-722; Schouler, *United States*, vol. i., p. 234.

every measure connected with the finances was stopped, the attention of the House being absorbed by another subject.*

On January 23 Giles introduced five resolutions requiring information, among other things, on various points growing out of the loans authorized by Congress in August, 1790. The first called for copies of the papers authorizing the loans; the second, for the names of the persons to whom and by whom the French debt had been paid; the third, for a statement of the balances between the United States and the Bank; the fourth, for an account of the Sinking Fund; and the fifth, for a statement of the unexpended revenue at the close of 1792.† The object of these resolutions was clearly to inculcate the Secretary of the Treasury in some act of mismanagement or misapplication of these loans and of the revenue generally.‡ Giles made some remarks which showed the animus of

his proceedings* as well as his determination to prove that a large sum

* Lodge calls Giles a "rough, brazen, loud-voiced Virginian, fit for any bad work, no matter how desperate."—*Alexander Hamilton*, p. 148. But we must bear in mind Hildreth's remarks, previously quoted, regarding Washington: "Every biographer has been very anxious to shield his special hero." Lodge is the biographer of Hamilton and also editor of his *Works*; Hamilton was a protectionist; Lodge is a protectionist. The fact that someone thought Hamilton guilty of wrongdoing and expressed animus against him by calling for papers in connection with the case does not prove that such an opponent was "fit for any bad work." The fact that Hamilton proved his integrity does not justify such language. If Hamilton had been found guilty, Giles would have been the hero. The history of American politics is replete with instances of parties using the utterances and enactments of opponents, not only correctly but incorrectly, to influence public opinion. During the 1908 campaign President Taft repeatedly said that the Gorman-Wilson (Democratic) tariff bill was responsible for the panic of 1893. On page 20 of his collected speeches (issued under the title *Political Issues and Outlooks*, 1909) he speaks of the Gorman-Wilson tariff bill of "1903" and says: "With the prospect of a Democratic tariff for revenue and under the operation of the Gorman-Wilson Tariff Bill subsequently passed a period of depression set in." On page 125 he says that the result of the bill was to prostrate the industries of the country and to bring about a four years' depression lasting up to 1897. Again on page 133 he says that the certainty that a tariff for revenue only would be passed so disturbed the business interests of the country that a panic began "even before the Gorman-Wilson Bill was substituted for the McKinley bill." This was either supreme ignorance or effrontery. Yet upon such statements he appealed to the masses for their suffrages. Mr. Taft must have known that the panic began February 20, 1893, a fortnight before Cleveland assumed office; that the Sherman Purchase Act (a Republican law) was charged with the greater part of the trouble and was repealed; that Congress did not assemble to enact remedial legislation until August 7, 1893, after numerous failures, involving many millions, had occurred; that the Wilson bill was not introduced until December 19, 1893; and that it did not become law until August 27, 1894, nearly 18 months after the panic

* Schouler, *United States*, vol. i., p. 235.

† *Annals of Congress*, 2d Congress, 2d session, pp. 835-836.

‡ There were others besides Giles who thought some irregular transactions had taken place. Writing to Edmund Pendleton, February 23, 1793, Madison says: "The documents furnished shew that there has been, at least, a very blameable irregularity and secrecy in some particulars of it, and many appearances which at least require explanation. With some, suspicions are carried very far; others resolve the whole that is wrong into favoritism, to the Bank, &c; whilst the partisans of the Secretary either see nothing amiss, or are willing to ascribe everything that is so to venial, if not to laudable motives."—Madison's *Works* (Congress ed.), vol. i., p. 575.

had not been and could not be accounted for.*

The resolutions were adopted without debate, and shortly afterward long and exhaustive reports containing the required information were sent in.† These reports gave a full exposition of Hamilton's views and motives in his management of the Treasury.‡ Hamilton disposed of the most offensive imputation of all by

began; but for political reasons he omitted any mention of these facts in his speech. Yet while this was an attempt to lay at the door of Gorman, Wilson, and the Democratic party one of the most disastrous panics in history, no one has said that President Taft is "fit for any bad work, no matter how desperate." The fact that Lodge favors and fights for protection to the "infant industries" of the country does not give anyone the right to say he is in the pay of the "interests" or fit for, as the Democrats might term it, "bad work." But, on the other hand, if Lodge's opponents institute proceedings to ascertain if Lodge be in the pay of the "interests," they are not necessarily "desperate" characters in the sense that Lodge applies that term to Giles. The Senators who instituted the recent Lorimer investigation and voted for his expulsion (as Lodge did) were not "fit for any bad work" nor "desperate," though Lorimer was not at his first trial found guilty of the charges made against him. Invective is not argument. The politics of that time were undoubtedly not as "refined" as at present, and it was probably the plan of the Anti-Federalists to oust Hamilton by attacking him in the spot which they thought most vulnerable.

* *Annals of Congress*, 2d Congress, 2d session, pp. 836-840; Schouler, *United States*, vol. i., p. 236.

† For Tucker's account of this matter, see his *Life of Jefferson*, vol. i., pp. 401-405. "It seems probable," says Tucker, "that the secretary, having proved himself innocent of the more serious part of the charge, the common reaction in favor of those who have been unjustly accused, took place, and inclined men to acquit him altogether."

‡ *American State Papers, Finance*, vol. i., p. 192 et seq.; *Annals of Congress*, 2d Congress, 2d session, pp. 1198-1310.

explaining the methods of bookkeeping in vogue in the Treasury Department. Of favoritism he fairly acquitted himself, and proved that his general loan operations had redounded to the credit of the government. The worse that could be inferred from his reports was that he had assumed authority without strict regard to the letter of the law, though this course had resulted in no real mischief to the country. It was evident, however, that the attack upon his reputation had angered him, for in conclusion Hamilton says: "Thus have I not only furnished a just and affirmative view of the real situation of the public accounts, but have likewise shown, I trust, in a conspicuous manner, fallacies enough in the statements, from which the inference of an unaccounted for balance is drawn, to evince that it is one tissue of error." Nevertheless, this did not end the discussion of the matter, for on February 27, Giles introduced nine resolutions containing charges against the Secretary.* In substance, these charged that Hamilton had failed to give Congress information at the proper time of moneys drawn from Europe; that, by applying the money borrowed to another object, he had violated the law of August 4, 1790, under which the money was borrowed; that he had drawn part of the money

* For these resolutions and Jefferson's original draft, see Ford's ed. of *Jefferson's Writings*, vol. vi., pp. 168-171; *Annals of Congress*, 2d Congress, 2d session, p. 900; Benton, *Abridgment of Debates*, vol. i., p. 418.

into the United States without instructions from the President; that he had exceeded his authority in making loans; that he had drawn more of the money borrowed in Holland than these acts authorized him, and without instructions from the President; and that, finally, he had been guilty of an indecorum to the House in questioning its motives in requesting information. The matter was debated until March 1, finally terminating in the rejection of the resolutions, and hence in the exculpation of Hamilton from censure.* The highest number voting for any one of the resolutions was 15.†

The other acts of Congress may be briefly enumerated. Early in February a fugitive slave act was passed; trade with the Indians was regulated; claims advanced by the officers of the old Continental army, for compensation for loss on the certificates in which they had been paid, was rejected; and an attempt to initiate an amendment to the Constitution regarding the suability of a State was made (the details of which will be explained later). Congress adjourned March 2, and on the same day Washington's first term ended; but as he had been reëlected to the Presidency, he continued in office for another four years.

APPENDIX TO CHAPTER II.

I.—HAMILTON'S FIRST REPORT ON PUBLIC CREDIT.

TREASURY DEPARTMENT.

January 9, 1790.

The Secretary of the Treasury, in obedience to the resolution of the House of Representatives of the twenty-first day of September last, has, during the recess of Congress, applied himself to the consideration of a proper plan for the support of the public credit, with all the attention which was due to the authority of the House, and to the magnitude of the object.

In the discharge of this duty, he has felt, in no small degree, the anxieties which naturally flow from a just estimate of the difficulty of the task, from a well founded diffidence of his own

qualifications for executing it with success, and from a deep and solemn conviction of the momentous nature of the truth contained in the resolution under which his investigations have been conducted, "That an adequate provision for the support of the public credit is a matter of high importance to the honor and prosperity of the United States." * * *

In the opinion of the Secretary, the wisdom of the House, in giving their explicit sanction to the proposition which has been stated, cannot but be applauded by all who will seriously consider and trace, through their obvious consequences, these plain and undeniable truths:

That exigencies are to be expected to occur, in

* *Annals of Congress*, 2d Congress, 2d session, pp. 899-963; Hamilton's ed. of *Hamilton's Works*, vol. iv., pp. 495, 512, 516; Benton, *Abridgment of Debates*, vol. i., pp. 418-440.

† "The whole of the session was thus spent in sifting the conduct of the secretary. * * * The investigation served one purpose of the opposition; it prevented any question being taken on the report. It seems somewhat anomalous, that

a party which had charged the administration with a wish to perpetrate the debt, should thus have thwarted its measures to discharge it, and an explanation of the fact, can only be found in a fixed determination to break down the secretary."—Gibbs, *Administrations of Washington and Adams*, vol. i., p. 82. See also McMaster, vol. ii., pp. 116-119; Gay, *Life of Madison*, p. 197 *et seq.*

the affairs of nations, in which there will be a necessity for borrowing;

That loans in times of public danger, especially from foreign war, are found an indispensable resource, even to the wealthiest of them.

And that, in a country which, like this, is possessed of little active wealth, or, in other words, little moneyed capital, the necessity for that resource must, in such emergencies, be proportionably urgent.

And as, on the one hand, the necessity for borrowing, in particular emergencies, cannot be doubted; so, on the other, it is equally evident, that, to be able to borrow upon good terms, it is essential that the credit of a nation should be well established. * * *

If the maintenance of public credit, then, be truly so important, the next inquiry which suggests itself is, By what means it is to be effected? The ready answer to which question is, by good faith; by a punctual performance of contracts. States, like individuals, who observe their engagements, are respected and trusted, while the reverse is the fate of those who pursue an opposite conduct. * * *

While the observance of that good faith, which is the basis of public credit, is recommended by the strongest inducements of political expediency, it is enforced by considerations of still greater authority. There are arguments for it which rest on the immutable principles of moral obligation. And in proportion as the mind is disposed to contemplate, in the order of Providence, an intimate connexion between public virtue and public happiness, will be its repugnancy to a violation of those principles.

This reflection derives additional strength from the nature of the debt of the United States. It was the price of liberty. The faith of America has been repeatedly pledged for it, and with solemnities that give peculiar force to the obligation. There is, indeed, reason to regret that it has not hitherto been kept; that the necessities of the war, conspiring with inexperience, in the subjects of finance, produced direct infractions; and that the subsequent period has been a continued scene of negative violation, or non-compliance. But a diminution of this regret arises from the reflection, that the last seven years have exhibited an earnest and uniform effort, on the part of the Government of the Union, to retrieve the national credit, by doing justice to the creditors of the nation; and that the embarrassments of a defective constitution, which defeated this laudable effort, have ceased.

From this evidence of a favorable disposition given by the former Government, the institution of a new one, clothed with powers competent to calling forth the resources of the community, has excited correspondent expectations. A general belief accordingly prevails, that the credit of the United States will quickly be established on the firm foundation of an effectual provision for the existing debt. The influence which this has had at home, is witnessed by the rapid increase that has taken place in the market value of the public securities. From January to November, they rose thirty-three and a third per cent.; and from that period to this time, they have risen fifty per cent. more; and the intelligence from abroad announces effects proportionably favorable to our national credit and consequence.

It cannot but merit particular attention, that, among ourselves, the most enlightened friends of good government are those whose expectations are the highest.

To justify and preserve their confidence; to promote the increasing respectability of the American name; to answer the calls of justice; to restore landed property to its due value; to furnish new resources, both to agriculture and commerce; to cement more closely the union of the States; to add to their security against foreign attack; to establish public order on the basis of an upright and liberal policy:—these are the great and invaluable ends to be secured by a proper and adequate provision, at the present period, for the support of public credit. * * *

The advantage to the public creditors, from the increased value of that part of their property which constitutes the public debt, needs no explanation.

But there is a consequence of this, less obvious, though not less true, in which every other citizen is interested. It is a well known fact, that, in countries in which the national debt is properly funded, and an object of established confidence, it answers most of the purposes of money. Transfers of stock or public debt, are there equivalent to payments in specie; or, in other words, stock, in the principal transactions of business, passes current as specie. The same thing would, in all probability, happen here under the like circumstances. * * *

It ought not, however, to be expected, that the advantages described as likely to result from funding the public debt, would be instantaneous. It might require some time to bring the value of stock to its natural level, and to attach to it that fixed confidence, which is necessary to its quality as money. Yet the late rapid rise of the

public securities encourages an expectation that the progress of stock, to the desirable point, will be much more expeditious than could have been foreseen. And as, in the mean time, it will be increasing in value, there is room to conclude that it will, from the outset, answer many of the purposes in contemplation. Particularly, it seems to be probable, that from creditors, who are not themselves necessitous, it will early meet with a ready reception in payment of debts, at its current price.

Having now taken a concise view of the inducements to a proper provision for the public debt, the next inquiry which presents itself is, What ought to be the nature of such a provision? This requires some preliminary discussions.

It is agreed on all hands, that that part of the debt which has been contracted abroad, and is denominated the foreign debt, ought to be provided for according to the precise terms of the contracts relating to it. The discussions which can arise, therefore, will have reference essentially to the domestic part of it, or to that which has been contracted at home. It is to be regretted that there is not the same unanimity of sentiment on this part as on the other.

The Secretary has too much deference for the opinions of every part of the community, not to have observed one, which has more than once made its appearance in the public prints, and which is occasionally to be met with in conversation. It involves this question: Whether a discrimination ought not to be made between original holders of the public securities, and present possessors, by purchase? Those who advocate a discrimination, are for making a full provision for the securities of the former at their nominal value; but contend that the latter ought to receive no more than the cost to them, and the interest. And the idea is sometimes suggested, of making good the difference to the primitive possessor.

In favor of this scheme, it is alleged, that it would be unreasonable to pay twenty shillings in the pound, to one who had not given more for it than three or four. And it is added, that it would be hard to aggravate the misfortune of the first owner, who, probably, through necessity, parted with his property at so great a loss, by obliging him to contribute to the profit of the person who had speculated on his distresses.

The Secretary, after the most mature reflection on the force of this argument, is induced to reject the doctrine it contains, as equally unjust and impolitic; as highly injurious, even to the

original holders of public securities; as ruinous to public credit.

It is inconsistent with justice, because, in the first place, it is a breach of contract—a violation of the rights of a fair purchaser.

The nature of the contract, in its origin, is, that the public will pay the sum expressed in the security, to the first holder or his assignee. The intent in making the security assignable, is, that the proprietor may be able to make use of his property, by selling it for as much as it may be worth in the market, and that the buyer may be safe in the purchase.

Every buyer, therefore, stands exactly in the place of the seller; has the same right with him to the identical sum expressed in the security; and, having acquired that right, by fair purchase, and in conformity to the original agreement and intention of the Government, his claim cannot be disputed, without manifest injustice. * * *

The impolicy of a discrimination results from two considerations: One, that it proceeds upon a principle destructive of that quality of the public debt, or the stock of the nation, which is essential to its capacity for answering the purposes of money, that is, the security of transfer; the other, that, as well on this account as because it includes a breach of faith, it renders property, in the funds, less valuable, consequently, induces lenders to demand a higher premium for what they lend, and produces every other inconvenience of a bad state of public credit.

It will be perceived, at first sight, that the transferable quality of stock is essential to its operation as money, and that this depends on the idea of complete security to the transferee, and a firm persuasion, that no distinction can, in any circumstances, be made between him and the original proprietor.

The precedent of an invasion of this fundamental principle, would, of course, tend to deprive the community of an advantage with which no temporary saving could bear the least comparison.

And it will as readily be perceived that the same cause would operate a diminution of the value of stock in the hands of the first as well as of every other holder. The price which any man who should incline to purchase, would be willing to give for it, would be in a compound ratio to the immediate profit it afforded, and the chance of the continuance of his profit. If there was supposed to be any hazard of the latter, the risk would be taken into the calculation, and either there would be no purchase at all, or it would be at a proportionately less price. * * *

But there is still a point in view, in which it will appear perhaps even more exceptionable than in either of the former. It would be repugnant to an express provision of the constitution of the United States. This provision is, that "all debts contracted, and engagements entered into, before the adoption of that constitution, shall be as valid against the United States under it, as under the Confederation;" which amounts to a constitutional ratification of the contracts respecting the debt, in the state in which they existed under the confederation. And, resorting to that standard, there can be no doubt that the rights of assignees and original holders must be considered as equal. * * *

The Secretary, concluding that a discrimination between the different classes of creditors of the United States cannot with propriety, be made, proceeds to examine whether a difference ought to be permitted to remain between them and another description of public creditors—those of the States, individually. The Secretary, after mature reflection on this point, entertains a full conviction, that an assumption of the debts of the particular States by the Union, and a like provision for them, as for those of the Union, will be a measure of sound policy and substantial justice. * * *

There are several reasons, which render it probable that the situation of the State creditors would be worse than that of the creditors of the Union, if there be not a national assumption of the State debts. Of these it will be sufficient to mention two: one, that a principal branch of revenue is exclusively vested in the Union; the other, that a State must always be checked in the imposition of taxes on articles of consumption, from the want of power to extend the same regulation to the other States, and from the tendency of partial duties to injure its industry and commerce. Should the State creditors stand upon a less eligible footing than the others, it is unnatural to expect they would see with pleasure a provision for them. The influence which their dissatisfaction might have, could not but operate injuriously, both for the creditors and the credit of the United States. Hence it is even [to] the interest of the creditors of the Union, that those of the individual States should be comprehended in a general provision. Any attempt to secure to the former either exclusive or peculiar advantages, would materially hazard their interests. Neither would it be just, that one class of public creditors should be more favored than the other. The objects for which both descriptions of the debt were contracted, are in the main the same.

Indeed, a great part of the particular debts of the States has arisen from assumptions by them on account of the Union. And it is most equitable, that there should be the same measure of retribution for all. There is an objection, however, to an assumption of the State debts, which deserves particular notice. It may be supposed, that it would increase the difficulty of an equitable settlement between them and the United States.

The principles of that settlement, whenever they shall be discussed, will require all the moderation and wisdom of the Government. In the opinion of the Secretary, that discussion, till further lights are obtained, would be premature. All, therefore, which he would now think advisable on the point in question, would be, that the amount of the debts assumed and provided for, should be charged to the respective States, to abide an eventual arrangement. This, the United States, as assignees to the creditors, would have an indisputable right to do. * * *

There is good reason to conclude, that the impressions of many are more favorable to the claim of the principal, than to that of the interest; at least so far as to produce an opinion, that an inferior provision might suffice for the latter.

But, to the Secretary, this opinion does not appear to be well founded. His investigations of the subject have led to a conclusion, that the arrears of interest have pretensions at least equal to the principal. * * *

The result of the foregoing discussions is this: That there ought to be no discrimination between the original holders of the debt, and present possessors by purchase. That it is expedient there should be an assumption of the State debts by the Union, and that the arrears of interest should be provided for on an equal footing with the principal.

The next inquiry, in order, toward determining the nature of a proper provision, respects the quantum of the debt, and the present rates of interest.

The debt of the Union is distinguishable into foreign and domestic.

The foreign debt, as stated in schedule B, amounts to, principal, \$10,070,307 00
Bearing an interest of four,
and partly an interest of
five per cent.

Arrears of interest to the last of
December, 1789 1,640,071 62

Making, together \$11,710,378 62

The domestic debt may be subdivided into liquidated and unliquidated; principal and interest.

The principal of the liquidated part, as stated in the schedule C, amounts to..... \$27,383,917 74

Bearing an interest of six per cent.

The arrears of interest, as stated in the schedule D, to the end of 1790, amount to..... 13,030,168 20

Making, together \$40,414,085 94

The unliquidated part of the domestic debt, which consists chiefly of the continental bills of credit, is not ascertained, but may be estimated at 2,000,000 dollars.

These several sums constitute the whole of the debt of the United States, amounting, together, to \$54,124,464.56. That of the individual States is not equally well ascertained. * * * The Secretary, however, presumes that the total amount may be safely stated at twenty-five millions of dollars, principal and interest. * * *

On the supposition that the arrears of interest ought to be provided for on the same terms with the principal, the annual amount of the interest, which, at the existing rates, would be payable on the entire mass of the public debt, would be —

On the foreign debt, computing the interest on the principal, as it stands, and allowing four per cent. on the arrears of interest. \$542,599 66

On the domestic debt, including that of the States..... 4,044,845 15

Making, together \$4,587,444 81

The interesting problem now occurs: Is it in the power of the United States, consistently with those prudential considerations which ought not to be overlooked, to make a provision equal to the purpose of funding the whole debt, at the rates of interest which it now bears, in addition to the sum which will be necessary for the current service of the Government?

The Secretary will not say that such a provision would exceed the abilities of the country; but he is clearly of opinion that, to make it, would require the extension of taxation to a degree, and to objects, which the true interest of

the public creditors forbids. It is therefore to be hoped, and even to be expected, that they will cheerfully concur in such modifications of their claims, on fair and equitable principles, as will facilitate to the Government an arrangement substantial, durable, and satisfactory to the community. * * *

Probabilities are always a rational ground of contract. The Secretary conceives, that there is good reason to believe, if effectual measures are taken to establish public credit, that the Government rate of interest in the United States will, in a very short time, fall at least as low as five per cent.; and that, in a period not exceeding twenty years, it will sink still lower, probably to four. There are two principal causes which will be likely to produce this effect; one, the low rate of interest in Europe; the other, the increase of the moneyed capital of the nation, by the funding of the public debt. * * *

Premising these things, the Secretary submits to the House the expediency of proposing a loan, to the full amount of the debt, as well of the particular States as of the Union, upon the following terms:

First. That, for every hundred dollars subscribed, payable in the debt, (as well interest as principal) the subscriber be entitled, at his option, either to have two-thirds funded at an annuity or yearly interest of six per cent., redeemable at the pleasure of the Government, by payment of the principal, and to receive the other third in lands in the western territory, at the rate of twenty cents per acre; or, to have the whole sum funded at an annuity or yearly interest of four per cent., irredeemable by any payment exceeding five dollars per annum, on account both of principal and interest, and to receive, as a compensation for the reduction of interest, fifteen dollars and eighty cents, payable in lands, as in the preceding case; or, to have sixty-six dollars and two-thirds of a dollar funded immediately, at an annuity or yearly interest of six per cent., irredeemable by any payment exceeding four dollars and two-thirds of a dollar per annum, on account both of principal and interest, and to have, at the end of ten years, twenty-six dollars and eighty-eight cents funded at the like interest and rate of redemption; or, to have an annuity, for the remainder of life, upon the contingency of fixing to a given age, not less distant than ten years, computing interest at four per cent.; or, to have an annuity, for the remainder of life, upon the contingency of the survivorship of the youngest of two persons, computing interest in this case also at four per cent.

In addition to the foregoing loan, payable wholly in the debt, the Secretary would propose that one should be opened for ten millions of dollars, on the following plan:

That, for every hundred dollars subscribed, payable one half in specie, and the other half in debt, (as well principal as interest) the subscriber be entitled to an annuity or yearly interest of five per cent., irredeemable by any payment exceeding six dollars per annum, on account both of principal and interest. * * *

In order to keep up a due circulation of money, it will be expedient that the interest of the debt should be paid quarter-yearly. * * *

The remaining part of the task to be performed is to take a view of the means of providing for the debt, according to the modification of it which is proposed. * * *

* * * to pay the interest of the foreign debt, and to pay four per cent. on the whole of the domestic debt, principal and interest, forming a new capital, will require a yearly income of \$2,239,163.09—the sum which, in the opinion of the Secretary, ought now to be provided, in addition to what the current service will require. * * *

With regard to the instalments of the foreign debt, these, in the opinion of the Secretary, ought to be paid by new loans abroad. Could funds be conveniently spared from other exigencies, for paying them, the United States could ill bear the drain of cash, at the present juncture, which the measure would be likely to occasion.

But to the sum which has been stated for payment of the interest, must be added a provision for the current service. This the Secretary estimates at six hundred thousand dollars, making, with the amount of the interest, two millions eight hundred and thirty-nine thousand one hundred and sixty-three dollars and nine cents.

This sum may, in the opinion of the Secretary, be obtained from the present duties on imports and tonnage, with the additions which, without any possible disadvantage, either to trade or agriculture, may be made on wines, spirits, (including those distilled within the United States) teas and coffee. [Following this is a detailed statement of the proposed duties, with a discussion of this subject; also a discussion of the steps which ought to be taken toward assuming the State debts.]

II.—HAMILTON'S SECOND REPORT ON PUBLIC CREDIT.

TREASURY DEPARTMENT,

December 13, 1790.

In obedience to the order of the House of Representatives, of the ninth day of August last, requiring the Secretary of the Treasury to prepare and report, on this day, such further provision as may, in his opinion, be necessary for establishing the public credit, the said Secretary respectfully reports:

That the object which appears to be most immediately essential to the further support of public credit, in pursuance of the plan adopted during the last session of Congress, is the establishment of proper and sufficient funds for paying the interest which will begin to accrue after the year one thousand seven hundred and ninety-one, on the amount of the debts of the several States, assumed by the United States, having regard at the same time to the probable or estimated deficiency in those already established, as they respect the original debt of the Union.

In order to [do] this, it is necessary, in the first place, to take a view of the sums requisite for those purposes.

The amount which has been

assumed, of the State debts, is. \$21,500,000 00

The sum of annual interest upon that amount, which, according to the terms of the proposed loan, will begin to accrue after the year one thousand seven hundred and ninety-one, is....	\$788,333 33
The estimated deficiency in the funds already established, as they respect the original debt of the United States, is.....	38,291 40
Making, together	<u>\$826,624 73</u>

For procuring which sum, the reiterated reflections of the Secretary have suggested nothing so eligible and unexceptionable, in his judgment, as a further duty on foreign distilled spirits, and a duty on spirits distilled within the United States, to be collected in the mode delineated in the plan of a bill, which forms part of his report to the House of Representatives, of the ninth day of January last.

Under this impression, he begs leave, with all deference, to propose to the consideration of the House—

That the following additions be made to the

duties on distilled spirits imported from foreign countries, which are specified in the act making further provision for the payment of the debts of the United States, namely: [Here follows a detailed statement of the proposed duties.]

The product of these several duties (which correspond in their rates with those proposed in the report above referred to, of the ninth of January last) may, upon as good grounds as the nature of the case will admit, prior to an experiment, be computed at eight hundred and seventy-seven thousand and five hundred dollars, the particulars of which computation are contained in the statement which accompanies this report.

This computed product exceeds the sum which has been stated as necessary to be provided, by fifty thousand eight hundred and seventy-five dollars and twenty-seven cents; an excess which, if it should be realized by the actual product, may be beneficially applied towards increasing the sinking fund.

The Secretary has been encouraged to renew the proposition of these duties, in the same form in which they were before submitted, from a belief, founded on circumstances which appeared in the different discussions on the subject, that collateral considerations, which were afterwards obviated, rather than objections to the measure itself, prevented its adoption, during the last session; from the impracticability, which he conceives to exist, of devising any substitute equally conducive to the ease and interest of the community; and from an opinion that the extension of the plan of collection, which it contemplates, to the duties already imposed on wines and distilled spirits, is necessary to a well grounded reliance on their efficacy and productiveness.

The expediency of improving the resource of distilled spirits, as an article of revenue, to the greatest practicable extent, had been noticed upon another occasion. Various considerations might be added to those then adduced, to evince it, but they are too obvious to justify the detail. There is scarcely an attitude in which the object can present itself, which does not invite, by all the inducements of sound policy and public good, to take a strong and effectual hold of it.

The manner of doing it, or, in other words, the mode of collection, appears to be the only point about which a difficulty or question can arise.

* * *

The Secretary, however, begs leave to remark, that there appear to him two leading principles, one or the other of which must necessarily

characterize whatever plan may be adopted. One of them makes the *security* of the *revenue* to depend chiefly upon the *vigilance* of the *public officers*; the other rests it essentially on the *integrity* of the *individuals* interested to avoid the payment of it.

The first is the basis of the plan submitted by the Secretary; the last has pervaded most, if not all the systems, which have been hitherto practised upon, in different parts of the United States. The oaths of the dealers have been almost the only security for their compliance with the laws.

It cannot be too much lamented, that these have been found inadequate dependence. But experience has, on every trial, manifested them to be such. Taxes or duties, relying for their collection on that security, wholly, or almost wholly, are uniformly unproductive. And they cannot fail to be unequal, as long as men continue to be discriminated by unequal portions of rectitude. The most conscientious will pay most; the least conscientious, least. * * *

It may not be improper further to remark, that the two great objections to the class of duties denominated excises, are inapplicable to the plan suggested. These objections are, first, the *summary jurisdiction* confided to the officers of excise, in derogation from the course of the common law, and the right of trial by jury; and, secondly, the general power vested in the same officers, of *visiting and searching, indiscriminately*, the houses, stores, and other buildings, of the dealers in excised articles. But, by the plan proposed, the officers to be employed are to be clothed with no such *summary jurisdiction*, and their *discretionary* power of visiting and searching, is to be restricted to those places which the dealers themselves shall designate, by public insignia or marks, as the depositories of the articles on which the duties are to be laid. Hence, it is one of the recommendations of the plan, that it is not liable to those objections.

Duties of the kind proposed are not novel in the United States as has been intimated in another place. They have existed, to a considerable extent, under several of the State Governments, particularly in Massachusetts, Connecticut, and Pennsylvania. In Connecticut, a State exemplary for its attachment to popular principles, not only all ardent spirits, but foreign articles of consumption, generally, have been the subjects of an excise or inland duty.

If the supposition, that duties of this kind are attended with greater expense in the collection, than taxes on lands, should seem an argu-

ment for preferring the latter, it may be observed that the fact ought not too readily to be taken for granted. The state of things in England, is sometimes referred to as an example on this point, but, there, the smallness of the expense in the collection of the land tax, is to be ascribed to the peculiar modification of it, which, proceeding without new assessments, according to a fixed standard, long since adjusted, totally disregards the comparative value of lands, and the variations in their value. The consequence of this is, an inequality so palpable and extreme, as would be likely to be ill relished by the landholders of the United States. If, in pursuit of greater equality, accurate periodical valuations or assessments are to afford a rule, it may well be doubted whether the expense of a land tax will not always exceed that of the kind of duties proposed. * * *

Among other substantial reasons which recommend, as a provision for the public debt, duties upon articles of consumption, in preference to taxes on houses and lands, is this: It is very desirable, if practicable, to reserve the latter fund for objects and occasions which will more immediately interest the sensibility of the whole community, and more directly affect the public safety. It will be a consolatory reflection, that so capital a resource remains untouched by their provision, which, while it will have a very material influence in favor of public credit, will, also, be conducive to the tranquillity of the public mind, in respect to external danger, and will really operate as a powerful guarantee of peace. * * *

But, in order to be at liberty to pursue this salutary course, it is indispensable that an efficacious use should be made of those articles of consumption which are the most proper and the most productive, to which class distilled spirits very evidently belong; and a prudent energy will be requisite, as well in relation to the mode of collection, as to the quantum of the duty.

It need scarcely be observed, that the duties on the great mass of imported articles have reached a point which it would not be expedient to exceed. There is at least satisfactory evidence that they cannot be extended further, without contravening the sense of the body of the merchants; and, though it is not to be admitted as a general rule, that this circumstance ought to conclude against the expediency of a public measure, yet, when due regard is had to this disposition which that enlightened class of our citizens has manifested towards the National Government * * * there will be perceived to exist the most solid reasons against lightly passing the bounds which coincide with their impressions of what is reasonable and proper. It would be, in every view, inauspicious

to give occasion for a supposition that trade alone is destined to feel the immediate weight of the hands of Government, in every new emergency of the treasury.

However true, as a general position, that the consumer pays the duty, yet, it will not follow, that trade may not be essentially distressed and injured, by carrying duties on importation to a height which is disproportionate to the mercantile capital of the country. It may not only be the cause of diverting too large a share of it from the exigencies of business, but, as the requisite advances to satisfy the duties, will, in many, if not in most cases, precede the receipts from the sale of the articles on which they are laid, the consequence will often be sacrifices which the merchant cannot afford to make.

The inconveniences of exceeding the proper limit, in this respect, which will be felt everywhere, will fall with particular severity on those places which have not the advantage of public banks, and which abound least in pecuniary resources. Appearances do not justify such an estimate of the extent of the mercantile capital of the United States as to encourage to material accumulations on the already considerable rates of the duties on the mass of foreign importation. * * *

A diversification of the nature of the funds is desirable on other accounts. It is clear that less dependence can be placed on one species of funds, and that, too, liable to the vicissitude of the continuance, or interruption of foreign intercourse, than upon a variety of different funds, formed by the union of internal with external objects.

The inference, from these various and important considerations seems to be, that the attempt to extract wholly, from duties on imported articles, the sum necessary to a complete provision for the public debt, would probably be both deceptive and pernicious—incompatible with the interests not less of revenue than of commerce; that resources of a different kind must, of necessity, be explored; and the selection of the most fit objects is the only thing which ought to occupy the inquiry. * * *

To these more direct expedients for the support of public credit, the institution of a national bank presents itself, as a necessary auxiliary. This the Secretary regards as an indispensable engine in the administration of the finances. To present this important object in a more distinct and more comprehensive light, he has concluded to make it the subject of a separate report. * * *

CHAPTER III.

1789-1793.

INTERNAL AFFAIRS: FOUNDING OF THE REPUBLICAN PARTY.

Washington's tour through New England — Convening of Congress — Washington's message — Enactments — Institution of the patent system — The cotton-gin and its influence — Admission of North Carolina, Rhode Island, Vermont and Kentucky — Death of Franklin — Washington's visit to Rhode Island — His trip to the South — The formation of political parties — Jefferson the representative Republican — His dislike of Hamilton — Marshall's opinion — Hamilton's view of government — Party leaders and the press — The gazettes edited by Fenno and Freneau — *Essays of Davila* — "Publicola" — Jefferson's introduction to Paine's book — The apportionment bill — The Presidential succession — Washington's attempts to reconcile Jefferson and Hamilton — Their answers to his letters — Hamilton's charges against Freneau — Washington's reelection — The yellow fever epidemic at Philadelphia.

The first session of Congress adjourned September 29, 1789, and shortly afterward Washington, who had been seriously ill in June, determined to make a tour through the Eastern States, for the double purpose of regaining health and of observing the general condition of that section of the country. Accompanied by Tobias Lear and Mr. Jackson, his secretaries, and traveling in his own private equipage, he set out on October 15 and proceeded by way of New Haven, Hartford, Worcester, Boston and Newburyport, as far as Portsmouth, New Hampshire. On his return journey he took a different route through the interior, and reached New York on November 13. On this trip he was much impressed by the respect paid him by all classes of people.* Salem gave a ball

in his honor, and Portsmouth a harbor excursion; at Hartford he in-

embracing the opening of the first Congress, and his tours through New England, Long Island, and the southern states. Together with his journal of a tour to the Ohio in 1753, edited by Benson J. Lossing (Richmond, 1861) and published by the Virginia Historical Society. Other records of his progress are in William S. Stryker, Washington's Reception by the People of New Jersey in 1789 (Trenton, 1882), and for New York in Griswold, Republican Court, p. 134; Hildreth, United States, vol. iv., p. 55. See also Sparks, Life of Washington, p. 421; Irving, Life of Washington, vol. v., chap. vi.; McMaster, United States, vol. i., pp. 565-566; Lodge, George Washington, vol. ii., pp. 73-75. For the incident of Hancock's failure to call upon the President promptly, see Incidents in the Life of John Hancock as related by Dorothy Quincy Hancock Scott (from the Diary of Gen. W. H. Sumner), in Magazine of American History, p. 508 (June, 1888). See also Ford's ed. of Washington's Writings, vol. xi., p. 444, note i; Fisher Ames, Works, vol. i., p. 74; Sparks, Correspondence of the Revolution, vol. iv., p. 289; Memorial History of Boston, vol. iii., p. 199; Barry, History of Massachusetts, vol. iii., p. 310 and references. The views of Hancock's political enemies will be found in Stephen Higginson, The Writings of Laco, as published in the Massachusetts Sentinel, February and March, 1789 (Boston, 1789), reprinted as Ten Chapters in the Life of John Hancock (New York, 1857).

* Of this and later journeys we have Washington's own account in his *Diary from 1789 to 1791*;

spected the manufactories; and at Cambridge saw the great elm under which he took command of the patriot army. Upon his arrival at Boston a trade proceession with banners appeared, its ranks opening from Roxbury line to the old State-house. He was highly pleased with the journey and greatly astonished both at the marvelous growth of manufactures and commerce in New England and at the general contentment of the people with the new government.*

On January 4, 1790, Congress re-assembled, and on the 8th Washington's first annual address was delivered.† The President spoke of the general prosperity of the country, and recommended that Congress take under consideration a number of important subjects, particularly the matter of providing proper means of defence for the sea coast. He said: "To be prepared for war, is one of the most effectual means of preserving peace. A free people ought not only to be armed, but disciplined; to which end, a uniform and well digested plan is requisite; and their safety and interest require that they should promote such manufactories as tend to render them independent of others for essential, particularly military, supplies." He suggested that means be provided to maintain

intercourse with foreign nations; that a uniform rule of naturalization be established, and that literature and science be promoted, since "Knowledge is in every country the surest basis of public happiness. In one in which the measures of government receive their impression, so immediately from the sense of the community as in ours, it is proportionately essential. * * * Whether this desirable object will best be promoted by affording aids to seminaries of learning already established, by the institution of a national university, or by other expedients, will be well worthy of a place in the deliberations of the legislature." The speech closed with a recommendation that an efficient system for supporting the public credit be provided.

Among the laws of a general nature passed were those for the naturalization of aliens after two years' residence; for the patenting of inventions; for securing to authors the copyright of their productions; regulating the merchant marine in respect to the seamen engaged in it; forming the ground work for a criminal code; for a military establishment; for arranging the means of intercourse with the Indians regarding trade and the acquisition of territories owned by them, etc. After returning thanks to the corporation of the city of New York for the accommodations furnished, Congress adjourned August 12, 1790, to meet again in December at Philadelphia.

* Schouler, *United States*, vol. i., p. 130.

† Lodge, *George Washington*, vol. ii., p. 76 *et seq.* For text, see Richardson, *Messages and Papers*, vol. i., pp. 65-67; *Annals of Congress*, vol. i., pp. 932-934.

As stated above, one of the acts of this session dealt with the patenting of inventions. The Eastern States had grown wonderfully during the past few years, and as commerce and manufactures advanced, new devices of all descriptions were invented. In order to ensure to the inventor the fruits of his labor, it was essential that some government office be established where a model of the invention could be registered for the purpose of determining possible infringements. Accordingly, Jefferson inspired a patent system, which formed the basis of the law of April 10, 1790.* This established a Patent Office and made the Secretary of State, the Secretary of War, and the Attorney-General a board of commissioners to examine the claims of inventors, and to issue patents to deserving applicants. From the decision of this board there was to be no appeal. Only three patents were issued in 1790,† 33 in 1791, 11 in 1792, and 20 in 1793.‡ But upon complaint of the unsuccessful applicants that the powers of the commissioners were too great and too arbitrary, in 1793 the patent law was revised—for the worse, since it now granted all those powers to the Secretary of State alone. This law contin-

ued in force for forty-three years (until 1836), when it was again revised.

That same year the Post Office Building, containing the Patent Office, was destroyed by fire, and in this conflagration 7,000 models were lost. Among them were models of a grain-cutter, a dock-cleaner, and a threshing-machine, the invention of Leonard Harbach, of Baltimore; a watermill for roping and spinning combed wool and flax; a candle-machine invented by Benjamin Folger, of Hudson, New York; a diving apparatus invented by Mr. Torrey, of Lebanon; and a new method of turning iron into steel, devised by Henry Voight.* The most famous, however, was the cotton-gin, invented by Eli Whitney, the essential features of which are used in cotton-ginning machinery at the present time the world over.† Whitney had invented this machine in Georgia, but before his patent had been secured, some rascals broke into his workshop and carried off the model. Whitney then went to Connecticut, where he completed a new model, upon which a patent was granted on March 14, 1794. To guard his rights, Eli Whitney was subjected to the annoyance of endless suits, losing many thousands of dollars in defending them.‡

* Schouler, *United States*, vol. i., p. 143.

† Bishop, *History of Manufactures*, vol. ii., p. 21.

‡ McMaster, vol. ii., p. 160. For the year ending December 31, 1911, there were 33,927 patents granted, including designs, and 157 patents reissued. Prior to July 1, 1836, there were 9,957 patents issued, and up to December 31, 1911, this number had increased to 1,023,051. See the *Annual Reports of the Commissioners of Patents*.

* McMaster, vol. ii., p. 161.

† See article by John R. Fordyce, *Cotton-Ginning Machinery* in *Encyclopedia Americana*, vol. v.

‡ Bishop, *History of Manufactures*, vol. ii., pp. 48-50, 69-70; Hammond, *The Cotton Industry*, pp. 24-30; Olmsted, *Memoir of Eli Whitney*; Hammond (ed.), *Correspondence of Eli Whitney*

The invention of the cotton-gin gave a wonderful impetus to the cotton industry, but, as the machine for spinning the cotton was far from perfect, the cloth manufacturers complained that the machinery was worthless in its unimproved condition and would end in their ruin. In 1788 a mill was erected at Providence for the manufacture of "homespun cloth," particularly jeans of linen warp spun by hand. Ingh Orr, of Bridgewater, now invented a spinning jenny; and the owners of the mill secured a model of it and built a carder. Then came a spinning frame with eight heads of four spindles each, operated by a hand-turned crank; but the mill owners found this method too laborious and attempted to use water power. This, too, failing, they sold the machine to Moses Brown, of Pawtucket. In November, 1789, Brown secured the services of Samuel Slater, an Englishman, who, after an apprenticeship in English shops where he had learned to work the Arkwright machine, recently arrived in the country. Brown requested Slater to devise a new style of jenny. The Englishman entirely discarded the old methods and in December had three carders and seventy-two spindles of the Arkwright pattern in operation in a mill at Pawtucket.* Thenceforth

the production and manufacture of cotton increased by leaps and bounds.*

Meanwhile, in 1789, Washington was gratified by the receipt of intelligence that on November 21 North Carolina had ratified the Constitution and had thus become one of the United States.† An act was passed by Congress accepting the cession of the claims of North Carolina in the West, and on May 20, 1790, provision was made for the government of these lands under the title "The Territory of the United States South of the River Ohio." Another State was added to the Union, when on May 29, 1790, Rhode Island adopted the Constitution and cast in her lot with the sister States.‡ Early in 1790 the Rhode Island Legislature called a convention to consider the Federal Constitution. In the upper house Governor Collins cast the deciding vote, which action cost him his place, for next spring the Anti-Federalists

ress of the Cotton Manufacture in the United States; G. S. White, *Memoir of Samuel Slater*; N. Appleton, *Introduction of the Power Loom and Origin of Lowell*; Hammond, *The Cotton Industry*, pp. 238-239; Young, *The American Cotton Industry*; Carroll D. Wright, *Industrial Evolution of the United States*, pp. 125-126.

* Coman (*Industrial History of the United States*, p. 149) says that thousand of acres in the South were soon brought under cotton culture; that in 1792 the Southern States sent 630 bales of lint cotton to England, in 1793 more than 7,000 bales and in 1800, 79,000 bales.

† Schouler, *United States*, vol. i., p. 140. See also Elliott, *Debates*, vol. iv.; McRae, *Iredell*, vol. ii., chaps. xxi-xxii.; A. W. Clason, in *Magazine of American History* (April, 1886).

‡ Richman, *Rhode Island*, pp. 255-256; Bates, *Rhode Island and the Formation of the Union*, pp. 173-200.

Relative to the Invention of the Cotton Gin, in *American Historical Review*, pp. 90-127 (October, 1897).

* Bishop, *History of Manufactures*, vol. i., pp. 402-403; Taussig, *Tariff History*, p. 26. See also S. Batchelder, *Introduction and Early Prog-*

dropped him and chose Arthur Fenner in his place. In the convention the Anti-Federalists predominated and succeeded in carrying a motion for an adjournment of the convention from March to the latter part of May. The United States Senate now passed a bill prohibiting all commercial intercourse with that State and calling upon her to remit her quota of the Continental debt. This stubbornness on the part of Rhode Island met with general disapproval at Providence and Newport; and, being threatened with Federal coercion, on the one hand and with secession on the other, the State finally yielded. When on May 24, the convention reassembled at Newport, a motion for further adjournment was defeated and the Constitution was ratified by a majority of two. This ratification was not carried, however, says Schouler, "without a longer list of proposed amendments to the Federal Constitution than there were towns in the State." * Early in January, 1791, representatives of the people of Vermont, in convention assembled at Bennington, adopted the Constitution, and applied to Congress for admission to the Union. As has been previously stated, both New Hampshire and New York claimed the territory in this State, and both had made grants within its limits. Refusing to submit to the authority of either State, the inhab-

itants declared themselves independent in 1777. A long and vexatious controversy ensued, but, the various disputes being finally settled, Vermont, on February 18, 1791, was admitted to the Union by act of Congress, taking her place among the States on March 4.*

Kentucky also was soon to become a State, having succeeded, after seven years of argument and petitioning, in gaining her separation from Virginia. The Federal Constitution had been adopted September 17, 1787, although it was not ratified until June 26, 1788. After receiving this news, and in anticipation of ratification, the petition which the Kentuckians addressed to the Virginia Assembly at each succeeding convention was accompanied by one to Congress asking admission to the Union. While Virginia always gave her consent to ratification, she attached conditions which were not acceptable to the people of the district. Congress was slow to act, and before Kentucky was admitted, the Constitution had been ratified by the necessary number of States and the old Confederation was no more. In a letter to Judge Muter, dated June 10, 1788, John Brown, of Danville, one of Virginia's Representatives from Kentucky, thus explains the action of Congress:

"The Eastern States would not, nor do I think they ever will, assent to the admission of the District into the Union, as an independent State,

* Schouler, *United States*, vol. i., p. 141. See also Sparks' ed. of *Washington's Writings*, vol. x., App. 6; Staples, *Providence*, p. 329.

* Robinson, *Vermont*, chap. xvii.; Thorpe, *Federal and State Constitutions*, vol. vi., p. 3761.

unless Vermont or the province of Maine is brought forward at the same time. The change which has taken place in the general government is made the *ostensible* objection to the measure, but the *jealousy of the growing importance of the Western Country, and an unwillingness to add a vote to the Southern interest are the real causes of opposition.*" *

Finally, on December 18, 1789, Virginia passed an act of separation in a form acceptable to the Kentuckians, and on July 26, 1790, a convention met. The conditions of the Virginia act were accepted and the day on which Kentucky should become a separate and independent State was fixed as June 1, 1792, a convention to frame a constitution for the new commonwealth being called for April 2, 1792.† On February 4, 1791, Congress passed an act, which received the President's signature February 14, admitting Kentucky into the Union to date from June 1, 1792,‡ and after the constitution of the new State had been adopted,|| Kentucky took her place as the fifteenth member of the union.§ At this time (1790), the population of Kentucky is believed to have been 73,677, and for 1792 R. T. Durrett estimated it to be 100,000.

* *The South in the Building of the Nation*, vol. i., pp. 257-258. Brown was wrong in this, however, for the delegates from all the States except Virginia had voted favorably. See Roosevelt, *Winning of the West*, vol. iii., p. 228.

† *The South in the Building of the Nation*, vol. i., p. 258.

‡ For text, see Thorpe, *Federal and State Constitutions*, vol. iii., p. 1264.

|| For text, see Thorpe, vol. iii., pp. 1264-1277.

§ Shaler, *Kentucky*, p. 107; McMaster, vol. ii., p. 35; *The South in the Building of the Nation*, vol. i., p. 263 et seq.

Isaac Shelby was Kentucky's first Governor.

One of the sad events of the period was the death of Benjamin Franklin on April 17, 1790. He was buried in the cemetery of Christ Church, more than 20,000 people attending his funeral. Congress resolved to wear mourning for one month "as a mark of veneration due to the memory of a citizen, whose native genius was not more an ornament to human nature, than his various exertions of it have been precious to science, to freedom, and to his country." * In the national assembly of France, Mirabeau delivered an oration extolling the great services of Franklin to mankind,† and Lafayette seconded a motion directing the members to wear mourning for a period of three days.‡ Throughout the world there was a general feeling of sadness at the loss of this illustrious patriot.

During the year Washington made another trip to the New England States, particularly for the purpose of visiting Rhode Island, which he had avoided on his previous trip. He made the journey in August, 1790,|| but, being again taken seriously ill, he was compelled the very next month to hasten to Mt. Vernon for a much needed rest. There, after his recu-

* Parton, *Life of Franklin*, vol. ii., p. 620.

† The speech is given by Parton, pp. 621-623. Mirabeau's address is also in Hale, *Franklin in France*, vol. ii., pp. 408-409.

‡ Weld, *Life of Franklin*, pp. 545-548.

|| Sparks, *Life of Washington*, p. 429; Lamb, *City of New York*, vol. ii., p. 376.

peration, he devoted his attention to his farm and to putting his private affairs in good order.*

In March, 1791, he made another trip, this time to the South. He awaited the adjournment of the third session of the First Congress, and then, about the middle of March, started on a journey which occupied three months. He went to Richmond, Wilmington, Charleston and Savannah, and thence returned by way of Augusta, Columbia, and the interior of North Carolina and Virginia. It is noteworthy of this trip that he performed the whole journey of nearly 1,900 miles with the same horses, keeping strictly to his schedule, so that the heads of the various governmental departments could keep in constant touch with him throughout the tour.† While on this trip, he spent several days on the Potomac, where he executed the powers entrusted to him by Congress for fixing upon a site for the capital of the United States.

Meanwhile the tendency among the people to separate into political organizations was becoming more and more evident. Personal differences and jealousies had been at work; the State rights question was beginning to assume importance; and it was becoming evident that those who supported the government and those

who opposed it were ranging themselves on one side or the other, according to convictions, preferences or interests. The new Republican party included three classes of men.* First there were those Anti-Federalists who opposed the Constitution for pecuniary reasons—those who desired a paper bank, or who wished to avoid the payment of their debts, and who naturally opposed Hamilton's financial policy, the fundamental precept of which was that the nation must live up to its contracts and that influential men must be interested in the support of the national government rather than in the government of their respective States. Secondly there were those Anti-Federalists who opposed the Constitution because they feared the government it would create might prove inimical to the interests and liberties of the country. In Hamilton's financial policy and the constitutional theory on which it was based, these men thought they saw ample confirmation of all they feared. Thirdly, there were those Federal Republicans who would have a government with powers adequate to the needs of the nation, but who wished also to preserve inviolable the powers of the States. These last had been driven from the ranks of the Federalist party by the evident determination of Hamilton to increase the powers

* Sparks, *Life of Washington*, p. 429.

† Sparks, *Life of Washington*, p. 434. See also Ford's ed. of *Washington's Writings*, vol. xii., pp. 30, 35, 45, 48, 49; Hamilton's ed. of *Hamilton's Works*, vol. v., p. 472.

* For Mr. Tucker's account of the personnel of the Federalist and Republican parties, see his *Life of Jefferson*, vol. i., pp. 483-485.

of the national government at the expense of State domination.

In 1789 the Federalist party was composed of two elements; first, the national element, which desired the government to rank as high as any in the world; and second, the commercial element, which simply desired a government sufficiently strong to make and enforce such commercial regulations and laws as would enable them to conduct business profitably. This latter class, to which belonged the merchants, bankers and speculators, naturally had the greatest interest in the successful consummation of Hamilton's financial policy. They cared little for the Nation as such — many of them had been Anti-Federalists before the Constitution was adopted — but when the new government proved a good thing from the business standpoint, they joined the Federalists to help perpetuate and, if possible, to extend it.

Originally the Anti-Federalists had not been a sectional party, for of their greatest strongholds, four (Massachusetts, New Hampshire, Rhode Island and New York) were in the North, while only two (Virginia and North Carolina) were in the South. But from the time of the organization of the government, the Federalists and Republicans became sectional, the former comprising the Northern party and the latter the Southern. Hamilton's financial policy created good times for the Northern commercial Federalists, but the

planters of the South had no such direct or pecuniary interest in it, and therefore united in opposition to it. The people who composed the Republican (or Democratic) minorities in the North and the Republican majorities in the South differed widely and had essentially different aims. In the North the wealthy, cultured, and intellectual classes were allied with the Federalists, while the small farmers, mechanics, and others were Democrats. In the South the reverse was the case, the aristocratic planters opposing Hamilton and the Federalists.* The Northern Democrats and the Southern Republicans were not united by ties of common ideals as to the proper object, scope and methods of government, but by pecuniary interests. Both classes were in debt, and Hamilton's financial policy benefited them only indirectly, while both felt the pressure of a system which laid especial emphasis on the payment of debts. Both farmers and planters had been driven into opposition to Hamilton's policy by, as Hildreth says, "a common reluctance to pay, a common dread of taxation, a common envy of the more fortunate moneyed class whose position had been so palpably improved by the funding of the public debt — though little more so in reality than the position of everybody else."†

* See Madison's letters to Jefferson and to Pendleton, *Madison's Works* (Congress ed.), vol. i., pp. 365-366, 381.

† Hildreth, *United States*, vol. iv., p. 350.

Naturally, each party came to look upon the other as the enemy of the best interests of the country, and each felt that upon its success depended the welfare of the Nation. The Federalists regarded the Republicans as Anti-Federalists in disguise; they believed that, being unable to prevent the adoption of the Constitution, the Republicans were doing everything possible to discredit and destroy the government by opposing the measures without which it could not endure, or to compel such a construction of the Constitution as would nullify it and make it practically useless. According to the Federalists, the Republicans hated government because it compelled them to pay their debts, to pay taxes, and restrained them from the license of anarchy. In opposing the Republicans, therefore, the Federalists believed they were fighting against Anarchists for the very existence of society. On the other hand, the Republicans were in no sense opposed to the Constitution, but merely opposed the men who occupied the high offices, chiefly because of what they deemed to be monarchical tendencies. They did not consider it republican to hold levees, to celebrate the birthday of the Executive, or to clothe the Supreme Court justices with "tawdry gowns," and they could not reconcile with simple frugal republicanism the equipage and the state ceremony of the Vice-

President.* In Washington's speeches to Congress they saw forms and ceremonies which tended to monarchical ideas. In the attempt to stamp on one side of the gold and silver coins a representation of the President's head, they saw a proclivity toward royalty.† They assailed the proposition as an unrepugnant imitation of Caesar's image and superscription.‡ They thought Hamilton's funding system would perpetuate the public debt and that the Federalists might always have the means to corrupt members of Congress and transform the government into a monarchy, with "kings, lords, and commons."

Numerous instances may be cited to show the opinions of the two parties regarding the important questions of the time. In 1794, when there was a prospect of war with England, the Federalist Sedgwick urged that the military force be increased. Madison thought that Hamilton had suggested this measure and that one

* Writing to his wife January 2, 1794, Adams says: "Our anti-federal scribblers are so fond of rotation, that they seem disposed to remove their abuse from me to the President. Bache's paper, which is nearly as bad as Freneau's, begins to join in concert with it to maul the President for his drawing-rooms, levees, declining to accept of invitations to dinners and tea-parties, his birthday odes, visits, compliments, etc. * * * I have held the office of libelee-general long enough."—John Adams, *Works*, vol. i., pp. 460-461. As to his feelings regarding official forms, see his letter of March 1, 1796, *ibid.*, p. 487.

† See Madison's letter to Henry Lee, March 28, 1792, Madison's *Works* (Congress ed.), vol. i., p. 551. An amendment was agreed to substituting an emblematic figure of Liberty.

‡ Schouler, *United States*, vol. i., p. 207.

of his objects was to turn "every contingency into a resource for accumulating force in the government." When in 1794 the government was considering the sending of 15,000 men to quell the Whiskey Rebellion, Jefferson said that "it answered the favorite purpose of strengthening government and increasing the public debt." The Republicans refused to congratulate Wayne for his decisive defeat of the Indians, because they believed the war unnecessary and that it had been waged in order to increase the national debt and strengthen the government. During the Genêt episode, in 1793, the Republicans (until Genêt "queered" his own cause) felt sure that the administration would not plunge the country in war, because it sympathized with monarchical England as against republican France. Believing that every move made by the Federalists had for its object the centralization of power in the general government, the Republicans fought to prevent the enactment of any measure which in the future might serve as a precedent for the extension of the powers of the government. As Fisher Ames said in 1792: "We have near twenty *Antis*, dragons, watching the tree of liberty, and who consider every strong measure and almost every ordinary one, as an attempt to rob it of its fair fruit. We hear incessantly from the old foes of the Constitution, This is unconstitutional, and that is. And indeed what is not? I scarce

know a point which has not produced this cry, not excepting a motion for adjournment."* Believing that, if the Republicans were successful in securing the adoption of their principles, the outcome would be the overthrow of all effective government, the Federalists threw themselves with passionate energy into the fight to retain their hold on the government, or at least to establish it so firmly before driven from power that the Republicans could not undo the work when they should assume the reins of government. The longer the fight continued, the more bitter it became, until men who had long been close personal friends ceased to speak to each other (Jefferson and Adams, for example).†

The chief exponent of republicanism was Jefferson, the Secretary of State.‡ Saturated with democracy, he had just returned from France where the whole population were shouting the praises of liberty, equality, and the rights of man.¶ Upon

* Fisher Ames, *Works*, vol. i., p. 114.

† See Gordy, *Political History of the United States*, vol. i., pp. 151-158.

‡ Lodge, *Alexander Hamilton*, p. 139 *et seq.*

¶ "It has been the fashion to say that the feelings and ideas gathered by Jefferson in France constituted the predominant influence throughout his subsequent political career. In this there is much exaggeration, and towards him much injustice. His character was more independent. * * * The originating disposition and radical temper of his mind had appeared from the outset, and were only confirmed, not created, by his foreign experience. Neither was his affection for France nor his antipathy to England then first implanted. Both sentiments were strong before he crossed the Atlantic; they were only en-

his return, therefore, his mind was impressed with what seemed to him to be an ardent desire on the part of some of the members of Congress and others with powerful influence to ape the acts and customs of the courts of Europe.* "An apostate I could not be, nor yet a hypocrite; and I found myself, for the most part, the only advocate on the republican side of the question, unless among the guests there chanced to be some member of that party from the legislative houses." Jefferson was quick-witted, shrewd, imaginative, possessed of remarkable sagacity in detecting the trend of public opinion, patient, skilful and indefatigable in the work of organizing, and, moreover, because of his wide learning in literature, the arts and sciences, was regarded as a man of extremely broad culture.† The

couraged by the pleasures of his long residence in the one country, and the convictions borne in upon him during his brief visit to the other."—Morse, *Thomas Jefferson*, pp. 87–88.

*See Ford's ed. of *Jefferson's Writings*, vol. i., pp. 159–160, 166. See also Schouler, *United States*, vol. i., pp. 189–191. Madison relates that he and Jefferson attended a dinner party about this time and the discussion turned upon constitutional topics. One of the party advanced the opinion that the hereditary designation of a chief execution was better than any elective process that could be devised. With a smile Jefferson stated that he had heard of a university where the professorship of mathematics was hereditary. See Madison's *Works* (Congress ed.), vol. iv., p. 112.

†Mr. C. F. Adams gives a somewhat different view, colored, no doubt, by the political differences of Jefferson and Mr. Adams's grandfather, John Adams. Mr. Adams says: "The character of Thomas Jefferson presents one of the most difficult studies to be met with by the historian of these times. At once an object of the most ex-

chief offenders, in his opinion, were Hamilton and Adams.*

Washington was much pained and mortified that party dissensions were on the increase, and particularly so because these dissensions were not confined to Congress and the people at large, but were prevalent in the Cabinet. From the very beginning the Secretary of State and the Secretary of the Treasury had disagreed; and the more fully Hamilton developed his financial schemes and succeeded in carrying them into effect, the more Jefferson disliked and opposed him in every possible way.† Once aroused, Jefferson's suspicion

alted eulogy among those who made him their political chief, and of the bitterest execrations of his opponents, it is not very easy, between the two, to trace the lines which truth and justice alike demand. As an original thinker, there can be little doubt of his claim to stand in the first rank among American statesmen. His, too, was the faculty, given to few, of leading the many, by impressing their minds with happily concentrated propositions. More ardent in his imagination than his affections, he did not always speak exactly as he felt towards either friends or enemies. As a consequence he has left hanging over a part of his public life a vapor of duplicity, or, to say the least, of indirection, the presence of which is generally felt more than it is seen. Sometimes, indeed, when his passions become roused by personal rivalry, it shows itself darkly enough. Cautious, but not discreet, sagacious, though not always wise, impulsive, but not open, his letters, as printed since his death, have scarcely maintained for him the character he enjoyed among his followers whilst living."—John Adams, *Works*, vol. i., p. 616.

*McMaster, vol. ii., pp. 49–52; Foster, *Century of American Diplomacy*, pp. 138–144. See also the reasons as given in Hunt, *Life of Madison*, p. 207 *et seq.*

†Sumner, *Life of Alexander Hamilton*, p. 184 *et seq.* See also Morse, *Thomas Jefferson*, p. 103 *et seq.*

of Hamilton and his set was sleepless. Probably originating in the free table talk of convivial parties and at official interludes, the financial policy which Hamilton was so gradually unfolding only tended to deepen the impressions of Jefferson concerning the Hamiltonian Federalists. While apparently tranquil, Jefferson was constantly on the alert and began to jot down in a diary (subsequently published as *The Anas*) various items of daily occurrence and particularly those relating to the actions of his opponents, which he thought might be of use later.

At this juncture the acquaintance of Jefferson and Madison ripened into close and intimate friendship, which grew closer and more affectionate as time passed. Madison's aid was invaluable to Jefferson for his better knowledge of Hamilton's plans. In Madison's position there was nothing strange or derogatory to his honor. He had never been the administration leader in Congress in the confidential sense of the term, but was probably the ablest member of the House — certainly the one who had done the most to bring the Constitution and the first administration into being. The issue did not involve the President personally, but only the two divergent wings of the Cabinet. Though Madison was overshadowed by Jefferson, he reaped all the advantages of such an association, and soon parted company with Hamilton because — as he said later

— he had become convinced that the latter was trying to administer the Constitution contrary to the true understanding and meaning of its framers.*

Jefferson was unsparing and vehement in denouncing Hamilton's political designs, his charges gaining force by constant reiteration. He was masterful, skilful and cunning in this sort of skirmishing, yet he did no injustice to Hamilton's colossal abilities. On the other hand, Hamilton considered himself the superior of all and treated with great condescension all those with whom he came in contact, Washington not excepted. In this he made a great mistake. In Hamilton's financial policy Jefferson perceived what to him seemed dangerous tendencies. He believed that a great national debt would bankrupt the country and ever remain an artful contrivance for keeping the government in close and profitable alliance with the moneyed classes, while the nation groaned under taxation. He had profound contempt for stock gambling and speculation and detested paper money and all business which thrived by "scrip fluctuations and note-shaving." He believed that the nation should not float irredeemable paper money, that funding should be limited to a redemption of the debt during the lifetime of the persons contracting it, and that no loan should be authorized without

* Schouler, *United States*, vol. i., pp. 193-194.

providing funds to meet the obligation upon maturity. "There can never be a fear," he writes, "but that the paper which represents the public debt will be ever sacredly good. The public faith is bound for this and no change of system will ever be permitted to touch this." Hamilton was extremely angry at the course taken by Jefferson and Madison. Conscious that his protection scheme and other schemes were balked, he charged the Jefferson faction with displaying feminine attachment to France and unreasonable resentment against Great Britain. Moreover, he said that Jefferson was "a man of profound ambition and violent passions [who was] seeking the Presidency." *

As is usual in cases of this kind, the longer the dissension continued, the greater became the bitterness and the wider the gulf of separation; so that within a comparatively short time the two secretaries were irreconcilably at variance on all questions of public policy.† In the various Cabinet meetings the President was called upon to listen to disputes between the secretaries, and to decide between the conflicting counsels of his constitutional

advisers.* In speaking of these differences, Marshall says:

"Until near the close of the war, Mr. Hamilton had served his country in the field, and, just before its termination, had passed from the camp into Congress, where he remained for some time after the establishment of peace. In the former station, the danger to which the independence of his country was exposed from the imbecility of its government, was perpetually before his eyes; and, in the latter, his attention was forcibly directed towards the loss of its reputation, and the sacrifice of its best interests, which were to be ascribed to the same cause. Mr. Hamilton, therefore, was the friend of a government which should possess, in itself, sufficient powers and resources, to maintain the character, and defend the integrity of the nation. Having long felt and witnessed the mischiefs produced by the absolute sovereignty of the states, and by the control which they were enabled and disposed separately to exercise over every measure of general concern, he was particularly apprehensive of danger from that quarter; which he believed was to be the more dreaded, because the habits and feelings of the American people were calculated to inspire state, rather than national

* Speaking of the severity of the blow to the Anti-Federalists caused by the assumption of the state debts and by the fact that now the powerful body of creditors would thenceforward look to the Union, and not to the separate States, for payment, Mr. Gibbs says: "The blow had been followed up. Duties were laid on imported goods. The merchant from that time owed his moneys to the United States, and paid them to her officers. Internal taxes were imposed; the returns were made to a collector of the general government. A bank was established; the paper which passed current from Vermont to Georgia was of federal origin. A mint was erected; the arms of the states were not stamped upon its coins. Protection was recommended to American manufacturers; it was the Union alone that could do all this. Commerce was encouraged; it was the marine of the United States. Every successive act by which some powerful interest was touched, brought the influence of that interest in favor of its source. The power of the state was diminished, because its citizens looked elsewhere than to the legislature, for the most important objects of attention." — Gibbs, *Administrations of Washington and Adams*, vol. i., pp. 77-78.

* Schouler, *United States*, vol. i., pp. 220-222.

† As Jefferson phrases it: "Hamilton and myself were daily pitted in the cabinet, like two cocks. We were then but four in number, and according to the majority, which of course was three to one, the president decided. The pain was for Hamilton and myself, but the public experienced no inconvenience."—Letter to Walter Jones, March 5, 1819, Ford's ed. of *Jefferson's Writings*, vol. ix., p. 273.

prepossessions. He openly avowed the opinion, that the greatest hazard to which the Constitution was exposed, arose from its weakness, and that American liberty and happiness had much more to fear from the encroachments of the states than from those of the general government.*

"Mr. Jefferson had retired from Congress before the depreciation of the currency had produced an entire dependence of the general on the local governments, after which he filled the highest offices in his native state. About the close of the war, he was re-elected to Congress; but was soon afterwards employed on a mission to the court of Versailles, where he remained while the people of France were taking the first steps in that immense revolution which has astonished and agitated two quarters of the world. It is not unreasonable to suppose, that, while residing at that court, and associating with those who meditated the great events which have since taken place, his mind might be warmed with the abuses of monarchy which were perpetually in his view, and he might be led to the opinion, that liberty incurred its greatest danger from established governments. Mr. Jefferson, therefore, seems to have entertained no apprehensions from the debility of the government; no jealousy of the state sovereignties; no suspicion of their encroachments. His fears took a different direction; and all his precautions were used to check and limit the exercise of the powers vested in the government of the United States. From that alone could he perceive danger to liberty. He did not feel the necessity of adopting the Constitution so sensibly as they did who had continued in the country; and he had, at one time, avowed a wish, that it might be rejected by such a number of states as would secure certain alterations which he thought essential. From this opinion, however, he is understood to have receded."†

* Hamilton seems to have become possessed of the idea that he alone was running the government. Probably his head had been turned by the way Congress had thrown all manner of questions into his hands for decision. As Lodge says (*Alexander Hamilton*, p. 158), "He could not rid himself of the idea that he really was the prime minister."

† Marshall, *Life of Washington*, vol. ii., pp. 231-232. See also Sparks, *Life of Washington*, p. 437 *et seq.*; Lodge, *George Washington*, vol. ii., p. 220; Foster, *Century of American Diplomacy*, p. 145 *et seq.*

That Jefferson and Madison greatly misunderstood Hamilton's policy as far as the government was concerned, is quite conceivable, for his letters seem to disprove the theory that he wished to establish a monarchy. Writing to Edward Carrington, May 26, 1792, Hamilton said:

"I am told that serious apprehensions exist in your state as to the existence of a monarchial party meditating the destruction of state and republican government. * * * I assure you, on my private faith and honor as a man, that there is not in my judgment, the smallest foundation for it. A very small number of men may indeed entertain theories less republican than Mr. Jefferson and Mr. Madison, but I am persuaded that there is not a man among them who would not regard as both criminal and visionary any attempt to subvert the republican system of the government. * * *

"As to the destruction of the state governments, the great and real anxiety is to be able to preserve the national from the too potent and counteracting influence of those governments. As to my own political creed, I give it to you with the utmost sincerity. I am affectionately attached to the republican theory. I desire above all to see the equality of political rights, exclusive of all hereditary distinction, firmly established by a practical demonstration of its being consistent with the order and happiness of society. As to the state governments, the prevailing bias of my judgment is that if they can be circumscribed within bounds, consistent with the preservation of the national government, they will prove useful and salutary. If the states were all of the size of Connecticut, Maryland, or New Jersey, I should decidedly regard the local government as both safe and useful. But as the thing now is, I acknowledge the most serious apprehension that the government of the United States will not be able to maintain itself against their influence. * * * Hence a disposition on my part towards the liberal construction of the powers of the national government, and to erect every fence, to guard it from depredations, which is, in my opinion, consistent with constitutional propriety. As to any combination to prostrate the state governments, I disavow and deny it."*

* Lodge's ed. of *Hamilton's Works*, vol. viii., p. 263.

Jefferson proposed to build a democracy, and therefore undertook to destroy the influence of the upper classes upon which Hamilton based his plan of government. His party was at first called "Democratic," but is better known by the name "Republican." The methods used by the Republican leaders were no more above reproach than those used by the Federalists, and every spark of popular discontent was fanned into a flame of indignation—impatience of high taxes, prejudice against monarchy and wealth, sectional jealousy, love of State autonomy, etc.*

At this time also Great Britain was regarded with enmity by a large portion of the people, while much affection was expressed for France. There was a tendency to favor French commercial interests, every obstacle being thrown in the way of English trade and commerce. The Republicans took one side of the question, and the Federalists the other. The Republicans were especially strong in the South and in Pennsylvania. In the South there were, politically speaking, two classes—the few large planters (usually Federalists) and the many small farmers (generally Republicans), though also supported by many people of means. The agricultural South then had little in common with the commercial and manufacturing North. Therefore Hamilton's great plans were a matter of com-

parative indifference to the Southerners. They could not see that there was any wisdom in banks and protected manufactures, and regarded with horror the accumulation of wealth by speculating in government bonds and bank stocks. Madison had now split with Hamilton, and this tended to solidify the great Southern leaders, the old Anti-Federalists and many of the Federalists giving Madison their support.* Though Jefferson strongly urged his coöperation, Henry refused to join the combination,† remaining neutral for some time, but later becoming an avowed Federalist.

The leaders of both parties soon began to realize the necessity of gaining the support of the press. The large majority of the papers were on the side of the Federalists, one of

* Gay says that Madison had entirely reversed his position and "that which had been white to him was now black; that which had been black was as the driven snow."—*Life of Madison*, p. 191. But this is an inaccurate statement of the case. A person might have been a Federalist in 1783–1789, in the sense of wanting more adequate powers for the general government (as Madison did), and still not agree with Hamilton's kind of Federalism implying that no powers would be adequate for the general government that did not make the powers of the States entirely subordinate to it. Madison himself says: "I deserted Colonel Hamilton, or, rather, he deserted me; in a word, the divergence between us took place from his wishing to administration, or, more properly, to administer the government into what he thought it ought to be; while, on my part, I endeavored to make it conform to the Constitution as understood by the Convention that produced and recommended it, and particularly by the State conventions that adopted it."—Rives, *Life of Madison*, vol. iii., p. 177. See also pp. 476, 482.

† Henry, *Life of Henry*, vol. ii., p. 549.

* Bassett, *Federalist System*, p. 44.

their strongest papers being the *Gazette of the United States*, edited by John Fenno, which had been taken under Hamilton's protection.* Under Republican auspices was the *National Gazette*, established in 1791 and edited by Philip Freneau.† This paper was a zealous and unflinching advocate of the measures favored by Jefferson and the Republicans.‡ Freneau had previously intended to issue his newspaper in New Jersey, but was persuaded by Henry Lee, Madison and Burr to go to Philadelphia.|| They had secured from Jefferson the promise of a position for Freneau

(that of translating clerk in the State Department at a salary of \$250 per year), and Jefferson offered also to show him certain favors (such as priority of news derived from his foreign dispatches), if he would establish the paper in Philadelphia.* Freneau thereupon accepted the proposition.† In the *United States Gazette* Fenno represented European politics through the medium of the English newspapers, which overcolored the extravagant acts of France, while Freneau filled the columns of the *National Gazette* from French and Continental papers, which represented republicanism in the most favorable light. Soon personal character was assailed, and Freneau's weekly diversion was "roasting" Hamilton, objecting to the monarchical ways of the President and the splendor of his wife. Freneau's enemies called him the "barking cur" and Marshall says the *Gazette* became "the vehicle of calumny against the funding and banking systems, against the duty on home-made spirits, which was denominated an excise, and against the men who had proposed and supported those measures. With perhaps equal asperity, the papers at-

* King, *Life and Correspondence of King*, vol. i., pp. 357, 502.

† The capital for Freneau's paper was furnished by James Madison and Governor Henry Lee, of Virginia. "The only part which the secretary of state took in the management of Freneau's *Gazette* was to lend the editor the foreign newspapers which came to the department. * * * The enterprise was chiefly Madison's. * * * Jefferson's sympathy with the object was complete; but the fact of Freneau's holding an office in his department is itself a kind of proof that he could not have regarded or used the paper as a personal organ. How absurd the supposition that a 'politician' would thus display his hand! If Freneau's *Gazette* had been designed as Jefferson's organ, Jefferson surely would have begun by removing Freneau from office."—Parton, *Life of Thomas Jefferson*, p. 433. Jefferson himself says: "I never did by myself or by any other, or indirectly, say a syllable, nor attempt any kind of influence, * * * nor write, dictate, or procure any one sentence to be inserted, in Freneau's or any other gazette, to which my name was not affixed, or that of my office." See also Ford's ed. of *Jefferson's Writings*, vol. i., p. 285 and vol. v., p. 355.

‡ Lodge, *Alexander Hamilton*, p. 143; Morse, *Thomas Jefferson*, pp. 133-134.

|| See Madison's letter to Edmund Randolph, September 13. 1792, regarding this in *Madison's Works* (Congress ed.), vol. i., pp. 569-570.

* Hunt says that the miserable pittance of \$250 per year cannot be justly called "a subsidy for the editor."—*Life of Madison*, p. 237. Gay adds that, as the duties of his office were light, there was no reason why the clerk should not find employment for his leisure hours.—*Life of Madison*, p. 177.

† Randall, *Life of Jefferson*, vol. ii., p. 74; Ford's ed. of *Jefferson's Writings*, vol. v., p. 336; *Madison's Works* (Congress ed.), vol. i., p. 369.

tached to the party which had defended these systems, assailed the motives of the leaders of the opposition." * Jefferson clearly perceived the violence to which this dispute would lead, but, while he disapproved of it, did not attempt to check it.†

In an effort to locate a vulnerable spot, each party now began to scan the words and deeds of the other. The Republicans attacked *The Essays of Davila*, a discussion of the principles of government lately published by John Adams, who was pronounced an aristocrat and a "monocrat."‡ These essays appeared in Fenno's *Gazette* at Philadelphia during the summer of 1790 and were copied in other administration papers. Adams' purpose was to direct American sentiment against the new idea of complete equality and the rights of man; he succeeded mainly in making himself obnoxious, and even men of his own party deplored the publication as un-

fortunate. In later life Adams himself admitted that *The Essays of Davila* helped to destroy his popularity, wondering how he ever could have written that "dull heavy volume." * In 1791 Paine wrote his *Rights of Man*, and was declared an outlaw by the English courts for publishing it in England. In reply to Paine's book, came a piece signed by "Publicola," which was so much in the same style as "Davila" that Adams was accused of being its author; but it was subsequently ascertained that the article was from the pen of his son, John Quincy Adams.† Some Philadelphia Republicans now decided to issue an American edition of Paine's work, and, upon request, Jefferson sent them a copy of the English edition, with a note in which he expressed satisfaction that an American edition was forthcoming and said that the doctrines being advocated in recent writings by persons in high places ought to be counteracted. This undoubtedly referred to "Publicola," and as the publishers, contrary to Jefferson's expectations, published this note as a preface to Paine's work, Adams became indignant over the matter and it was many years before he and Jefferson became reconciled.‡

* See also Fisher Ames, *Works*, vol. i., p. 128. Mr. Gibbs (vol. i., p. 79), speaking of the *National Gazette*, says that "during its short-lived existence, it was notorious for its scandalous falsehood and misrepresentation, its fulsome adoration of Mr. Jefferson, and its gross abuse of leading federal men. Against Mr. Adams, particularly, who, from his inoffensive position as vice-president, it might have been supposed, would have escaped unnoticed, it was, as a future possible president, incessant in its vituperation." See also Lodge, *George Washington*, vol. ii., pp. 223-235. For Mr. Tucker's defence of Jefferson, see his *Life of Jefferson*, vol. i., p. 392.

† See S. E. Forman, *The Political Activities of Philip Freneau*, in *J. H. U. Studies*, series xx., nos. ix.-x., pp. 492-500.

‡ John Adams, *Works*, vol. i., p. 454. For text of *Davila*, see Adams' *Works*, vol. vi., pp. 227-403.

* Schouler, *United States*, vol. i., pp. 192-193.

† Josiah Quincy, *Memoir of John Quincy Adams*, pp. 8-9; John T. Morse, Jr., *John Quincy Adams*, p. 18; John Adams, *Works*, vol. i., pp. 454-455; Schouler, p. 196.

‡ Bassett, *Federalist System*, pp. 48-49. See also Jefferson's letters regarding this, in Ford's

Another occasion for party strife was the apportionment bill, which was introduced in the first session of the second Congress. According to the first census (1790), the population was 3,929,214, of whom about 1,615,000 were male whites, 1,557,000 female whites, nearly 700,000 negroes, and about 60,000 others, besides Indians not taxed. It was first proposed that Congress adopt the lowest ratio allowed by the Constitution—30,000, which would have raised the number of Representatives to 113. Though large fractions of the population in the Northern States would have been unrepresented,* this ratio was accepted by the House November 15, 1791, by a vote of 35 to 23, and the bill was sent to the Senate.† In order to lessen the number of disfranchised inhabitants, the Senate raised the ratio to 33,000;‡ but then it was alleged that there were fractions still left unrepresented in the Southern States, though not quite so large as on the previous ratio. The House would not accept the change, however, and late in March, 1792, a bill was introduced, providing for another census and another apportionment before the

end of the next Congress.* The Senate refused its assent, and, instead of assigning representatives to the largest fractions unrepresented, increased the number of congressmen to 120.† It was said that this violated the letter of the Constitution, and the excitement continued to grow until threats were made of breaking up the Union. At last a committee of conference was appointed, which recommended the adoption of the scheme proposed by the Senate, and this plan was ultimately followed by a vote of 31 to 29.‡ It is a curious fact that the Southern Representatives rejected the amendment of the Senate, which embodied their own State sovereignty principle, while the Northern Representatives accepted it, though they were for the greatest part favorable to the opposite principle.||

Washington considered this method of apportioning Representatives as contrary to the Constitution.§ and on

ed. of *Jefferson's Writings*, vol. v., pp. 328-329, 331-332, 351-352, 353-355, 380-383; *John Adams, Works*, vol. i., p. 618 and vol. viii., pp. 503-511.

* Whereas Virginia would have 559 citizens unrepresented, Massachusetts would have 25,327, and in the fifteen States there would be a total of more than 369,000.—*McMaster*, vol. ii., p. 55.

† *Annals of Congress*, 2d Congress, 1st session, pp. 41-44, 144-149, 154, 168, 175, 177-191; *Benton, Abridgment of Debates*, vol. i., pp. 320-328.

‡ *Annals of Congress*, 2d Congress, 1st session, pp. 46-47.

* *Ibid.*, pp. 243-251, 254-275, 331-335, 403-405, 407-417, 473-474.

† *Ibid.*, pp. 101-103, 105-106.

‡ *Ibid.*, p. 482.

|| *Ibid.*, pp. 109, 111-112; *McMaster*, vol. ii., p. 57.

§ Ford's ed. of *Jefferson's Writings*, vol. i., p. 192. A difference of opinion is understood to have existed on this subject in the Cabinet. Secretary of State Jefferson and Attorney-General Randolph were of opinion that the act was at variance with the Constitution; Secretary of War Knox was undecided; and Secretary of the Treasury Hamilton, thinking that neither construction could be rejected absolutely, was in favor of acceding to the interpretation given by the legislature. See *Irving, Life of Washington*, vol. v., p. 119. For Jefferson's opinion, see Ford's ed. of *Jefferson's Writings*, vol. v., pp. 493-501.

April 5, 1792, vetoed the bill, sending his objections to Congress on that day.* The first was that the Constitution had prescribed “that Representatives shall be apportioned among the several States according to their respective numbers; and there is no one proportion or divisor which, applied to the respective numbers of the States, will yield the number and allotment of Representatives proposed by the bill.” The second objection was that, according to the Constitution, “the number of Representatives shall not exceed 1 for every 30,000, which restriction is by the context and by fair and obvious construction to be applied to the separate and respective numbers of the States; and the bill has allotted to eight of the States, more than 1 for every 30,000.” As the necessary two-thirds majority to pass the bill over the President’s veto could not be obtained, the bill failed.† On April 9, however, a bill was passed by a vote of 34 to 30.‡ making the apportionment 1 for every 33,000 in each State, which the President signed.||

* Richardson, *Messages and Papers*, vol. i., p. 124; Sparks, *Life of Washington*, p. 435.
† *Annals of Congress*, 2d Congress, 1st session, pp. 119, 540-541; Benton, *Abridgment of Debates*, vol. i., p. 374.
‡ *Annals of Congress*, 2d Congress, 1st session, pp. 542-549; Benton, vol. i., pp. 374-377.
|| Act of April 14, 1792, c. 23. See Benton, *Abridgment of Debates*, vol. i., pp. 320-328, 374-377; *Annals of Congress*, 2d Congress, 1st session, p. 1359; Schouler, *United States*, vol. i., pp. 205-207. The representation thus became:

NORTHERN STATES.	
Massachusetts	14
Pennsylvania	13

Another law was passed during the first session of the Second Congress regulating the Presidential succession and prescribing the manner of counting the electoral votes. It was provided that, in case both the President and Vice-President should die, resign, or be removed, the President of the Senate or — if there should be none — Speaker of the House, should act as President until a new election could be held. Regarding the count of electoral votes, it was provided that all electors should be appointed within thirty-four days preceeding the first Wednesday in December, 1792, on which day they were to meet in their respective States and cast their votes. In casting their ballots, the electors were to write on a piece of paper the names of two men, without designating their choice for President or Vice-President. Three certificates of the

New York	10
Connecticut	7
New Jersey	5
New Hampshire	4
Vermont	2
Rhode Island	2
Delaware	1
	<hr/> 59 <hr/>

SOUTHERN STATES.	
Virginia	19
North Carolina	10
Maryland	8
South Carolina	6
Georgia	2
Kentucky	2
	<hr/> 47 <hr/>
Total	105 <hr/>

vote cast were to be prepared; one to be sent by mail and another by special messenger to the President of the Senate, while the third was to be given for safe keeping to the judge of the district in which the electors met. The second Wednesday in February was appointed as the day on which Congress should count the vote. This law was approved March 1, 1792.*

Meanwhile the relations between Hamilton and Jefferson had become so strained that a violent outbreak seemed not far distant. Washington saw with manifest concern the growing enmity of his two chief advisers, and, bent on maintaining the existing arrangement as long as possible, exerted himself to effect a reconciliation. Jefferson had never intended to take any unfair advantage of his official position while warring upon Hamilton. In February, 1792, he expressed to Washington his intention of vacating office at the end of the present term and at the same time set forth the grounds of his distrust of the Treasury clique. Washington sought to dissuade him from resigning and later, in July, a confidential conversation took place between them which is well described in Jefferson's *Anas*. Referring to Jefferson's dissatisfaction, the President said that

suspicious against a particular party or faction had been carried too far, that he did not believe there were any serious designs to turn the government into a monarchy, and that, even though some few did wish it, the great body of the people were firmly for a republican form. He then proceeded to condemn certain recent publications, particularly those in Freneau's paper, as tending to produce dissolution and anarchy. "I take to myself," he said, "these attacks on my administration; in condemning the administration they condemn me; the attack is directly on me, for I must be a fool, indeed, to swallow the little sugar plums here and there thrown out to me." He said that he had not approved all the acts in all parts, yet he had never signed a bill without first thinking it eligible and the best that could be produced. After a rambling discussion of various other subjects, the interview ended.

Washington was not unimpressed by what Jefferson had said, as is shown in a letter to Hamilton. In July, 1792, he had gone to Mount Vernon and talked with George Mason and others regarding the situation. From them he received a catalogue of the grievances against Hamilton, evidently drawn up by Jefferson. Writing to Hamilton July 29, 1792, he copied these complaints almost *verbatim*, and it is not unlikely that Hamilton immediately recognized the source of Washington's in-

* Stanwood, *History of Presidential Elections*, pp. 17-20; *Annals of Congress*, 2d Congress, 1st session, pp. 36-38, 278-282, 302-303, 402-403, 405-407, 417; App., pp. 1341-1343; McMaster, vol. ii., p. 85; Benton, *Abridgment of Debates*, vol. i., pp. 333-335.

formation.* In his reply, August 18, Hamilton justified his conduct and met the charges point by point. He defended his financial policy in detail, the duties on imports, the excise, the bank paper, etc., making indignant denial as to the charge of corruption. He emphatically denied that his ultimate aim was to make way for a monarchy, though he said he did wish to make a constitutional change in the judiciary, so as to bring a more intimate connection between the State and National governments. He also charged his opponents with wishing to overturn the general government and to erect the separate power of States on its ruins.†

Finally Freneau's caustic paragraphs became so annoying to Hamilton that he completely lost his temper and proceeded to answer Freneau in the press and to whip Jefferson over the shoulder of the editor, a course which Lodge calls "improper and undignified," though no doubt the act of a man "righteously indignant." On July 25, 1792, a letter signed "T. L." appeared in *Fenno's Gazette*, charging that Freneau was employed in the government so as to be in a better position to attack the administration. A week later another letter, signed "An American," made the scathing charge that Freneau's

Gazette had been instituted by the Secretary of State and that Freneau was pensioned by public money at Jefferson's disposal. This Freneau denied, accompanying his denial by an affidavit that his coming to Philadelphia was voluntary on his part, that in his editorial capacity he had never been advised or influenced by Jefferson, that Jefferson had never directly or indirectly written for the paper, and that his clerkship of \$250 per annum had not been created for his special benefit. To this "An American" rejoined, offensively stating the charges and commenting on the affidavit as being evasive in its language.* The letters by "T. L." and "An American," and also another, by "A Plain, Honest Man," were written by Hamilton, but, as Lodge says, the plea that the leading men of the day wrote for the newspapers was not sufficient excuse for sending of anonymous communications by Hamilton to the newspapers, savagely attacking one of his colleagues in the administration.† Perhaps Hamilton's plan was to gain Washington to the Federalist side, for he knew Washington was angry at Freneau's attacks, and if he could prove Jefferson to be the supporter of Freneau, Washington's confidence in Jefferson would be shaken.‡ Ham-

* Ford's ed. of *Washington's Writings*, vol. xii., p. 147; Hamilton's ed. of *Hamilton's Works*, vol. iv., p. 303; Ford's ed. of *Jefferson's Writings*, vol. vi., pp. 101-109.

† Hamilton, *History of the Republic*, vol. v., p. 43.

* Schouler, *United States*, vol. i., p. 226.

‡ Lodge, *Alexander Hamilton*, pp. 145-146. See also Morse, *Thomas Jefferson*, pp. 135-136; Parton, *Life of Thomas Jefferson*, p. 444 et seq.

‡ Forman, *Political Activities of Philip Freneau*, pp. 43-63.

ilton remorselessly pressed home the charge against Freneau, but try as he would to procure positive confirmation of the charge, it was not forthcoming. It was Jefferson and not Freneau that Hamilton was attempting to reach with the rapier point. In the letters signed "An American," Hamilton attacked Jefferson personally as emulous of heading a party the policies of which tended to break down the general government; as one who, while in Europe, had suggested a dishonest transfer of the French debt, as an anti-constitutionalist; and as one who was now arraigning the administration with indiscreet, if not indecent, warmth.

Under date of August 22, 1792, Washington wrote to Jefferson a long and impressive letter, requesting that he make liberal allowances for Hamilton's temperament, and that he forebear suspicions and irritating charges.* On October 18 he again wrote to Jefferson, asking that harmony and peace be restored between the two disputing members of his Cabinet, saying, "I have a great, a sincere esteem and regard for you both, and ardently wish that some line may be marked out by which both of you could walk."† He wrote to Hamilton also, asking that he be a little more charitable in his construction of Jefferson's action, and at least that

he believe in his adversary's honesty and integrity.* But Washington's efforts were unavailing, for Jefferson and Hamilton diverged more and more, becoming not only political but personal enemies.†

Writing from Monticello in reply, Jefferson declared that he was deeply concerned at the dissension which had occurred among the Cabinet members. He said that he had entered the Cabinet determined not to meddle with the affairs of other governmental departments, and in general had adhered to his purpose, even though Hamilton had adopted a course precisely the reverse. "That I have utterly, in my private conversations, disapproved of the system of the Secretary of the Treasury," he said, "I acknowledge and avow, and this was not merely a speculative difference," but he said he had not intrigued with members of the legislature. He then proceeded to answer the attacks made by Hamilton in Fenno's *Gazette*, declaring that he wished to see the public debt liquidated, whereas Hamilton wished it to continue. He next explained the circumstances of Freneau's employment as translating clerk. Admitting that he had encouraged translations from

* See the letter in Sparks, *Life of Washington*, pp. 438-439; Ford's ed. of *Washington's Writings*, vol. xii., p. 174. See also Lodge, *George Washington*, vol. ii., pp. 226-227; Irving, *Life of Washington*, vol. v., pp. 142-143.

† Sparks, p. 440.

* Sparks, p. 439; Irving, p. 143. See also Hamilton's and Jefferson's replies in Irving, p. 144 *et seq.*

† The letters of Hamilton and Jefferson regarding the merits of the controversy as explained by themselves will be found in Spark's ed. of *Washington's Writings*, vol. x., p. 515. See also Morse, *Thomas Jefferson*, p. 137 *et seq.*; Parton, *Life of Thomas Jefferson*, p. 447 *et seq.*; Hamilton's *Works*, vol. iv., p. 303; Jefferson's *Writings*, vol. vi., p. 101.

foreign journals and that he knew Freneau would chastise aristocratical and monarchical writers, he said that he had never attempted to influence Freneau in any way and that nothing that was not signed by him had ever been contributed by him to the paper. He then added:

"As to the merits or demerits of his paper, they certainly concern me not. He and Fenno are rivals for the public favor. The one courts them by flattery, the other by censure, and I believe it will be admitted that the one has been as servile as the other severe. But is not the dignity and even decency of the government committed, when one of its principal ministers enlists himself as an anonymous writer or paragraphist for either the one or the other of them? No government ought to be without censors; and where the press is free no one ever will. If virtuous, it need not fear the fair operation of attack and defense. Nature has given to man no other means of sifting out the truth, either in religion, law, or politics. I think it as honorable to the government neither to know nor to notice its sycophants or censors, as it would be undignified and criminal to pamper the former and persecute the latter."

In his reply, Hamilton declined to recede from the course into which he conceived he had been forced by the Secretary of State.

"I know that I have been an object of uniform opposition from Mr. Jefferson from the moment of his coming to the city of New York to enter upon his present office. I know from the most authentic sources that I have been the frequent subject of the most unkind whispers and insinuations from the same quarter. I have long seen a formed party in the legislature under his auspices bent upon my subversion. I cannot doubt, from the evidence I possess, that the *National Gazette* was instituted by him for political purposes, and that one leading object of it has been to render me and all the measures connected with my department as odious as possible."

On his own part he said he had never countenanced retaliation, and it

was only when he saw a party bent on subverting the government that he had adopted his present course.

Hamilton's newspaper attack failed in its object. As a politician he was making the mistake of contending in single combat. His effort to make Jefferson obnoxious to the people was futile, for the people were in no mood to listen, and Hamilton alienated many by the dictatorial tone of his utterances. While Jefferson possessed the knack of giving a felicitous turn to his expressions, Hamilton cared little about the manner in which he poured forth his thoughts.

Such, then, were the conditions when the first election under the new laws took place. It had been Washington's intention to retire at the end of his first administration, but, in spite of the quarrels between the opposing political parties, the people as a whole were convinced that he was the only man fitted for the crisis,—the only one in whom the whole country had perfect confidence. Though gradually drifting into opposition to Washington's political principles, Jefferson was convinced that there should be no change in the executive department of the government at this time and wrote a long, earnest letter to the President on May 23, 1792,* urging him not to refuse a second nomination. On July 30 Hamilton

* See Sparks, *Life of Washington*, p. 442 *et seq.*; Irving, *Life of Washington*, vol. v., p. 130; Ford's ed. of *Jefferson's Writings*, vol. i., p. 203 *et seq.*; vol. vi., pp. 1-6.

sent the President a letter of the same tenor, saying, "on public and personal accounts, on patriotic and prudential considerations, a clear path to be pursued by you will be again to obey the voice of your country. I trust, and I pray to God, that you will determine to make a further sacrifice of your tranquillity and happiness to the public good."* Randolph held the same view, expressing the fear that, unless Washington continued at the head of affairs, the stability of the Constitution was by no means certain, he alone being able to cope with the disorders and rebellions which seemed imminent.† Thus strongly urged, not alone by the letters above referred to, but by others from various parts of the country, Washington felt it his duty to accept a second nomination, and consented again to be placed in the President's chair. The ballots were cast as follows:

Number of electoral votes	STATES	George Washington, Va.	John Adams, Mass.	George Clinton, N. Y.	Thomas Jefferson, Va.	Aaron Burr, N. Y.
6	New Hampshire	6	6	.....	.....	.....
16	Massachusetts	16	16	.....	.....	.....
4	Rhode Island	4	4	.....	.....	.....
9	Connecticut	9	9	.....	.....	.....
3	Vermont	3	3	.....	.....	.....
12	New York	12	.....	12	.....	.....
7	New Jersey	7	7	.....	.....	.....
15	Pennsylvania	15	14	1	.....	.....
3	Delaware	3	3	.....	.....	.....
8	Maryland	8	8	.....	.....	.....
21	Virginia	21	.....	21	.....	.....
4	Kentucky	4	.....	.....	4	.....
12	North Carolina	12	.....	12	.....	.....
8	South Carolina	8	7	.....	.....	1
4	Georgia	4	.....	4	.....	.....
132	Total	132	77	50	4	1

Thus John Adams became Vice-President a second time.* In the Congressional elections the Republicans had better success, electing a majority of the members of the House of Representatives, who would sit from 1793-1795. Thenceforth they were able to conduct an agitation which reached every part of the country.

During the following summer a fearful disease desolated the homes of Philadelphia, when, in July, 1793, yellow fever made its appearance. For several weeks the deaths caused by that dreadful scourge were appalling; the streets of the city were black with funerals, and bells tolled incessantly. Thousands of people deserted their homes and fled to distant towns and villages. Every conceivable precaution was taken to prevent the spread of the malady; on August 22 Mayor Clarkson ordered the streets cleaned and the filth removed, and on the 26th the physicians of the city published an address warning the citizens against the danger of holding intercourse with infected persons. The tolling of funeral bells was stopped and all were advised to avoid fatigue, to dress warmly, and to observe temperate habits. At first huge bonfires were kindled in the hope of checking the disease, but when this proved ineffectual, guns were fired to

* Sparks, *Life of Washington*, p. 444; Irving, vol. v., pp. 138-139.

† See Sparks' ed. of *Washington's Writings*, vol. x., p. 514 *et seq.*; Irving, vol. v., pp. 139-140.

* McMaster, vol. ii., pp. 85-88; Schouler, *United States*, vol. i., p. 533; Stanwood, *History of Presidential Elections*, pp. 20-21; Benton, *Abridgment of Debates*, vol. i., pp. 385-386; *Annals of Congress*, 2d Congress, 1st session, pp. 645-646.

clear the atmosphere on the supposition that the smell of gunpowder would free the air of disease germs. Finally the spacious house of William Hamilton at Bush Hill was seized for use as a pest house; ten citizens volunteered as nurses; the Bank of North America advanced \$1,500; and Stephen Girard (with the aid of Peter Helm) undertook the superintendency of the hospital. But it was impossible to obtain the services of reputable women nurses who would care for the sick, and those who were secured so sadly neglected their duties that the patients died by scores; and rather than be sent to such a chamber of horrors the afflicted persons hid themselves from the authorities.*

Those who attempted to flee from the city during the later stages of the scourge experienced much difficulty in finding an asylum. Persons suspected of having the disease were turned back along the roads by armed

guards; the coast towns laid a quarantine on all vessels from Philadelphia; in many cases stages were forbidden to pass through towns; and travelers were subjected to a rigid examination by innkeepers as to whence they had come, before being allowed to stop at the inns. Governor Clinton of New York forbade ships from Philadelphia to approach nearer than Bedloe's Island; the health committees of New York, Trenton, and Baltimore posted handbills forbidding communication with Philadelphia, and all persons were warned against taking strangers into their homes. During September the death rate was high, but as the cooler days of October came on it decreased, on the 8th of that month standing at 100 and on the 11th at 119. By the end of November the fever had practically left the city. It is estimated that 4,000 persons perished during the four months from August to November.*

* McMaster, vol. ii., pp. 125-130; Schouler, *United States*, vol. i., pp. 252-255. See also Jefferson's letters, in Ford's ed. of *Jefferson's Writings*, vol. vi., pp. 402-403, 406-407, 418-419.

* McMaster, vol. ii., pp. 130-134; Sharpless, *Two Centuries of Pennsylvania History*, pp. 238-239; Schouler, vol. i., p. 255.

CHAPTER IV.

1789-1795.

FOREIGN RELATIONS: ENGLAND AND THE NORTHWEST.

Attitude of the United States toward foreign nations — Dispute with England regarding treaty — Dispute between England and Spain — Hammond's negotiations with Jefferson — England's attitude toward the French Revolution — British restrictions upon American commerce — Washington's fifth annual address to Congress — Jefferson's report on American commerce — Madison's resolutions and the ensuing debate — The embargo — British order in council — Attitude of political parties toward war with England — Jay's nomination as envoy to England — Money for fortifications — Founding of the navy — Measures to increase revenues — Restrictive measures — Indian treaties — British aid to the Indians — Harmar's defeat — Indian massacres — Expeditions of Scott and Wilkinson — The disaster to St. Clair's army — Wayne's defeat of the Indians at Fallen Timbers — The Treaty of Greenville.

While the internal affairs of the nation were being brought in order, the foreign affairs were becoming somewhat tangled. From the beginning Washington had studied diligently the various complicated questions which arose. He obtained full reports from the heads of the several departments, studied and condensed them in his own hand, and with scrupulous care read the voluminous correspondence on foreign affairs, dating from the peace, making abstracts so as to fix the most important details firmly in his mind.* In writing to Sir Edward Newenham before he became President, Washington said:

"I hope the United States of America will be able to keep disengaged from the labyrinth of European politics and wars; and that before long they will, by the adoption of a good national government, have become respectable in the eyes of the world, so that none of the maritime powers,

especially none of those who hold possessions in the New World or the West Indies, shall presume to treat them with insult or contempt. It should be the policy of the United States to minister to their wants without being engaged in their quarrels. And it is not in the power of the proudest and most polite people on earth to prevent us from becoming a great, a respectable, and a commercial nation if we shall continue united and faithful to ourselves."†

Writing to Washington, Jefferson said:

"I am decidedly of the opinion we should take no part in European quarrels, but cultivate peace and commerce with all, yet who can avoid seeing the source of war, in the tyranny of those nations who deprive us of the natural right of trading with our neighbors? * * * If the new government wears the front which I hope it will, I see no impossibility in the availing ourselves of the wars of others to open the other ports of America to our commerce, as the price of our neutrality. * * * "†

By the treaty of peace of 1783 the United States came into possession of all that part of the Northwest lying

* Lodge, *George Washington*, vol. ii., p. 131.

† Ford's ed. of *Jefferson's Writings*, vol. v., p. 57.

* Lodge, *George Washington*, vol. ii., p. 132-133.

south of a line drawn through the Great Lakes and through a chain of water-courses to the Lake of the Woods and eastward of the Mississippi. The territory thus gained was the source of an extensive fur trade, and the Canadian traders of Detroit and Quebec were loathe to surrender this trade to a power which would divert it to the Ohio. This territory was the key to the upper tributaries of the Mississippi, and as it was believed that the development of the territory beyond the great river would enrich the nation owning it, the Canadians soon found a pretext upon which to withhold the formal surrender of the territory. At this time the region was only sparsely settled, but there were a sufficient number of military posts in the territory to hold it under military subjection. These posts were at Michillimaekinae, Detroit, Fort Erie, Niagara, Oswego, Oswegatchie (on the St. Lawrence), Point-au-Fer, and Dutchman's Point (on Lake Champlain).^{*} With the expectation that the weakling American government would never be able to enforce her claims, Great Britain refused to surrender these posts, on the plea that the treaty of peace had been broken with regard to the collection of debts owed by Americans to British merchants.[†] The Americans, on the other hand, claimed that the British had

taken away thousands of slaves without compensation, and that they were justified in withholding payments of debts due the British until the latter should make restitution for the slaves. Each side felt it had a grievance and would not meet the other half way.

Again, though John Adams had been sent to England, Great Britain refused to send a minister to the United States, and also steadily refused to make a treaty of commerce. Washington considered it particularly desirable to secure full explanations from England, and in October of 1789, resolved to sound the British cabinet and ascertain its views respecting the matters in dispute. He entrusted the negotiations to Gouverneur Morris, who was then in Europe on private business. In writing to Morris, October 13, 1789, Washington said: "It is, in my opinion, very important that we avoid errors in our system of policy respecting Great Britain; and this can only be done by forming a right judgment of their dispositions and views."^{*} When Morris conferred with the Duke of Leeds and Mr. Pitt, these ministers expressed a desire to maintain friendly terms with America, saying that the chief obstacle was the non-execution of the treaty of peace on the part of the United States.[†] Sub-

^{*} *American State Papers, Foreign Relations*, vol. i., p. 190.

[†] On the controversy, see McLaughlin, *Western Posts and British Debts*, in *Report of the American Historical Association for 1894*, pp. 413-414.

^{*} *American State Papers, Foreign Relations*, vol. i., p. 122; Lodge, *George Washington*, vol. ii., p. 135.

[†] Some of the conversation is given in Parton, *Life of Thomas Jefferson*, pp. 408-410. See also *American State Papers, Foreign Relations*, vol. i., pp. 122-124.

sequently the Duke of Leeds said that, if the delay on the part of the American government in fulfilling its engagements should render the final completion of the treaty impossible, Great Britain would refuse to fulfil those engagements which depended upon her, until either redress be granted to English subjects on the specific points of the treaty itself or a fair and just compensation be made for the non-performance of those engagements on the part of the United States.*

At this time Great Britain and Spain were quarrelling, and, as it appeared probable that war might ensue, it was deemed a favorable opportunity to press the claims of the United States to the free navigation of the Mississippi. The American chargé at Madrid, Carmichael, was instructed to urge an early settlement of this matter and was directed to put forth his utmost endeavors to secure the unrestricted use of that river hereafter by obtaining a cession of the Island of New Orleans and of the Floridas. It was supposed that, should England and Spain become involved in war, the English would invade Louisiana and Canada; hence Washington turned his attention to the measures which would be necessary in case such an attempt were made. In response to the inquiries made by the President, Hamilton said that we ought to coöperate with England against

Spain, he being doubtful if we should ever need the western bank of the Mississippi.* Adams thought that we should remain neutral, for—

“the people of these States would not willingly support a war, and the present government has not strength to command, nor enough of the confidence of the nation to draw, the men or money necessary, until the grounds, causes, and necessity of it should become generally known and universally approved. * * * To grant to Lord Dorchester * * * permission to march troops through the territory of the United States, from Detroit to the Mississippi, would not only have an appearance, offensive to the Spaniards, of partiality to the English, but would be a real injury to Spain. The answer, therefore, to his Lordship, should be a refusal, in terms clear and decided, but guarded and dignified.” †

Jefferson, however, held that we should conclude a treaty of alliance with Spain, and, if possible, make France a party to it.‡ Morris summed up the state of affairs with England, basing his assumptions on conversations with the British officials, saying, “I have some reason to believe that the present administration intend to keep the posts, and without payment for the negroes.”|| Washington therefore deemed it useless to press the subject of a commercial treaty and withdrew the powers given to Morris.§ About the same time the differences between Great Britain and Spain were

* Hamilton's ed. of *Hamilton's Works*, vol. iv., pp. 48-69.

† John Adams, *Works*, vol. viii., p. 498.

‡ Ford's ed. of *Jefferson's Writings*, vol. v., pp. 199-203, 238-239.

|| Gordy, *Political History*, vol. i., p. 216. See also Sparks, *Life of Gouverneur Morris*, vol. i., chap. xviii., vol. ii., pp. 1-57.

§ See Roosevelt, *Gouverneur Morris*, p. 227 et seq.

* Leeds to Morris, April 28, 1790, *American State Papers, Foreign Relations*, vol. i., p. 123.

adjusted, the latter yielding the main points at issue, because she was convinced of her inability to cope successfully with her powerful adversary.*

At length diplomatic intercourse was opened with Great Britain, the latter having of her own volition sent George Hammond as minister-plenipotentiary to the United States. Thereupon Thomas Pinckney was sent to London as the American representative. In the autumn of 1791 Hammond arrived at Philadelphia and shortly afterward engaged in a long correspondence with the Secretary of State regarding the non-execution of the treaty of peace. Each charged the other with non-execution of the treaty, but still no steps were taken to put it into execution.† On December 15, 1791, Jefferson wrote Hammond a letter fully and clearly setting forth the American claims. Nearly three months passed before the minister replied. Then (March 5) he defended the British violation of the treaty on the ground that the United States had not kept its agreements.‡ On May 29, 1792,

Jefferson replied, presenting the two leading arguments from the American standpoint,* saying, first, that the American government had kept its agreement. The United States had agreed only to recommend that the States repeal all laws which conflicted with the collection of debts due British merchants by Americans. Congress had made such recommendations and, as the English government well knew, had earnestly endeavored to secure the passage of repealing acts. Wherefore, then, could England refuse to give up the posts? Even supposing that the United States was *bound* to see that the States complied with its recommendations, was it not equally true that England was *bound* to de-

* Manning, *The Nootka Sound Controversy*, in *Report of the American Historical Association* for 1904, pp. 279-478.

† For some of the letters, see Ford's ed. of *Jefferson's Writings*, vol. v., pp. 400-401, 402-403, 404-405, 436-437, 504; vol. vi., pp. 7-69. See also *American State Papers, Foreign Relations*, vol. i., pp. 135-136, 188 *et seq.* The correspondence was subsequently printed as *Papers Relative to Great Britain* (Philadelphia, 1793) and *Authentic Copies of the Correspondence, etc.* (London, 1794).

‡ *American State Papers, Foreign Relations*, vol. i., pp. 193-200.

* "Mr. Jefferson," says Tucker (vol. i., p. 369), "was called upon to vindicate the rights and dignity of his country in a long and laborious correspondence, first with the minister of Great Britain, and then with that of France, and which continued to occupy him during the whole time he remained in office. Distinguished for ability as the diplomatic correspondence of this country generally has been, there is no part of it that has been so extolled, both for style and argument, or given such satisfaction to all parties, as that which was carried on by Mr. Jefferson with Mr. Hammond and Mr. Genet." Parton says: "This despatch [that of May 20, 1792] is perhaps unsurpassed among the diplomatic documents of recent times for the thoroughness with which the work undertaken was performed. Its tranquil, dispassionate tone, and its freedom from everything that could irritate the self-love of the English government, or the English people, are as remarkable as the perfect frankness and fulness with which the rights of his country are stated."—*Life of Thomas Jefferson*, p. 415. See also Jefferson's report of conversation with Hammond, June 3, 1792, in Ford's ed. of *Jefferson's Writings*, vol. i., pp. 193 *et seq.*, 210 *et seq.*, 212.

liver the posts? Considerable time and great tact were necessary to induce thirteen States to pass the necessary acts, while England could deliver the posts at a minute's notice, and hence could not justify her delay in keeping her engagements by pleading that the United States had been equally remiss. How could England expect the American government to induce the States to pass the necessary laws so long as she still occupied our territory? Not until England kept her own engagements could she justly complain of the United States. She must cast the mote out of her own eye.*

The British minister, however, had been empowered only to negotiate for the adjustment of the complaints, not to conclude any definite agreement, so that the possibility of any agreement being reached regarding the commercial treaty was very slight. It was evident that he came to continue the old policy of delay.† After waiting more than a year for a reply, Jefferson wrote to Hammond (June 19, 1793) asking when an answer might be expected, and was informed (June 20) that no instructions had as yet been received from the British government.‡ In fact, no reply was ever made, England regarding possession as nine points of the law, and having

power to do as she pleased, determined to exercise it.* She evidently thought criminations and recriminations with the United States a waste of time, and soon began to act as though she had entered into an alliance with the French faction in the country to drive the American Government into the arms of France.

The conduct of England is intelligible only in the light of the intense influence exerted on English politics by the French Revolution. The great majority of the so-called upper classes in England looked upon the French Revolution with disgust and horror, while the effect upon the Whigs was radically different. Many Englishmen sympathized with the French in their attempt to find an escape from the sufferings which oppressed them. Some were constrained to believe that any change would be for the better, while the great majority seemed to think that these miseries were not so great after all. The English sympathizers organized revolutionary societies, issued pamphlets, corresponded with the revolutionary societies in France, and in many other ways sought to create a favorable public opinion.

The English government remained neutral and, when the French King was deposed, the English ambassador was recalled, though the government still protested its friendship for the

* *American State Papers, Foreign Relations*, vol. i., pp. 201-237.

† Bassett, *Federalist System*, p. 61.

‡ *American State Papers, Foreign Relations*, vol. i., p. 238.

* Winsor, *Narrative and Critical History*, vol. vii., pp. 462-463.

French people. France, however, did not recall her ambassador, because "in spite of all the ill-humors of [the English] government, the French people desired nothing more ardently than to merit its esteem and to preserve the good harmony and friendship which ought forever to unite two generous and free nations." Early in 1793 Louis XVI. was sent to the guillotine and on February 1 France declared war against Great Britain, a struggle which for the next twenty years raged like a mighty conflagration all over Europe. England believed that she was making war upon "that anarchy which has broken all the most sacred bonds of society, dissolved all the relations of civil life, violated every right, confounded every duty; which uses the name of liberty to exercise the most cruel tyranny, to annihilate all property, seize on all possessions; which founds its power on the pretended consent of the people, and itself carries fire and sword through extensive provinces for having demanded their laws, their religion, and their lawful sovereign."

Accordingly, regarding the French Revolution as anarchy, England and Russia in 1793 made a treaty in which they agreed to ignore all the rules and usages of international law in this contest with France and to compel other nations to do likewise. Resolving to force the French into submission by starvation, during the summer of 1793 England made treaties

with six nations, in each of which it was stipulated that the contracting parties should stop all provisions going to France. On May 9, 1793, the French government authorized the seizure of neutral ships laden with enemies' goods or with provisions destined for an enemy's port,* and on June 8 England retaliated by instructing the commanders of British cruisers to stop all ships laden with corn, flour or meal bound to any French port, and to send them to a convenient port where the provisions were to be purchased on behalf of the British government.† The ships were to be released on condition that they give security not to go to any country at war with Great Britain.‡

Before the United States had recovered from their astonishment at this invasion of the rights of non-belligerent nations, another powerful blow was struck by England at the neutral commerce of the United States. During times of peace France had enforced the colonial system as rigorously as any other European nation, but now she was obliged to open the ports of her colonies to the commerce of the whole world; for,

* *American State Papers, Foreign Relations*, vol. i., p. 244. The decree was suspended as to the United States, May 23, but was revived soon afterward.

† *American State Papers, Foreign Relations*, vol. i., p. 240.

‡ Pitkin, *Civil and Political History of the United States*, vol. ii., pp. 396-400, where documents are given. For Jefferson's protest against this, see Ford's ed. of *Jefferson's Writings*, vol. vi., pp. 412-417.

with England's naval supremacy, the French colonies could not purchase what they needed in any other way and would also have been deprived of a market for their own surplus products. Regarding this as an attempt on the part of France to protect herself against the English fleet, England, on November 6, 1793, issued another order in council by which all ships of war and privateers were charged to detain vessels laden with goods produced in any colony belonging to France, or with provisions for any such colony, and to bring them for adjudication before the courts of admiralty. This order included even that trade which was legal in times of peace.* These orders constituted an infringement of the principle that neutral ships make neutral goods, but England refused to accept that international principle.†

Not content with this, England directed also that American merchantmen be boarded and searched for English-born sailors.‡ Even had this search been conducted so as to make manifest that the only object was the impressment of British seamen, it would have been an outrage on the American flag to which this country ought not to have submitted. But the British did not stop with impressing British seamen; Americans were often impressed on the pretext that

they were of English birth. Under such circumstances, the United States was justified in believing that this pretext was sanctioned by the British government.* So strictly were these orders obeyed that by 1794 hundreds of American vessels and several hundred thousand dollars' worth of American goods were in English hands. At St. Eustatia alone 130 ships were condemned by the British courts. Sailors were maltreated, robbed of their personal effects, and often confined for days without food or water.† The French, Spanish, and Dutch were guilty of similar outrages on the American ships. For some time Jefferson had been collecting data regarding this, and when he left the Cabinet in 1793, he turned over these papers to Randolph, who, after reducing them to order, transmitted them to Washington, who laid them before Congress.‡

On December 2, 1793, the first session of the Third Congress convened, and as the Republicans had gained strength in the recent elections, they were able to elect Frederick A. Muhlenburg Speaker, over the Federalist candidate, Theodore Sedgwick.¶ On the next day Washington delivered his fifth annual address. He spoke of the situation in which the United States had been placed by the war,

* *American State Papers, Foreign Relations*, vol. i., p. 430.

† Lawrence, *Principles of International Law*, p. 566.

‡ Lodge, *George Washington*, vol. ii., p. 171.

* Gordy, *Political History*, vol. i., p. 227.

† McMaster, *United States*, vol. ii., pp. 166-167.

‡ McMaster, vol. ii., pp. 168-169.

¶ Schouler, *United States*, vol. i., p. 276.

§ Richardson, *Messages and Papers*, vol. i., pp. 139-142.

which, in the course of a year, had embraced most of the European nations. He considered it his duty to admonish his fellow citizens of the consequences of a contraband trade, and said that, to preserve the country in peace with all nations, he had adopted some general rules, which, while conforming to existing treaties, asserted the rights of the United States. He recommended that, while the United States fulfilled their duties toward other nations, they should not neglect to place the country in an efficient state of defence, and that they should exact from others the fulfilment of duties toward themselves. He said:

"The United States ought not to indulge a persuasion, that, contrary to the order of human events, they will forever keep at a distance those painful appeals to arms with which the history of every other nation abounds. There is a rank due to the United States among nations which will be withheld, if not absolutely lost, by the reputation of weakness. If we desire to avoid insult, we must be able to repel it; if we desire to secure peace, one of the most powerful instruments of our prosperity, it must be known that we are at all times ready for war."

On December 5 the President sent a message to Congress respecting the relations with Great Britain and France.* He first referred to the orders and decrees issued by the belligerent powers and the effect of these upon American commerce. He then spoke of the conduct of the French minister, as follows:

"It is with extreme concern I have to inform you that the proceedings of the person whom they

have unfortunately appointed their minister plenipotentiary here have breathed nothing of the friendly spirit of the nation which sent him. Their tendency, on the contrary, has been to involve us in a war abroad and discord and anarchy at home. So far as his acts or those of his agents have threatened our immediate commitment in the war, or flagrant insult to the authority of the laws, their effect has been counteracted by the ordinary cognizance of the laws and by an exertion of the powers confided to me. Where their danger was not imminent they have been borne with from sentiments of regard to his nation, from a sense of their friendship toward us, from a conviction that they would not suffer us to remain long exposed to the action of a person who has so little respected our mutual dispositions; and, I will add, from a reliance on the firmness of my fellow-citizens in their principles of peace and order." *

Accompanying the message were copies of the correspondence between Jefferson and Genêt, and of the letter written by the Secretary of State to Morris, which, Marshall says, "justified the conduct of the United States by arguments too clear to be misunderstood and too strong ever to be encountered."

This speech was referred to a committee of the House of which Madison was chairman, and on December 6, 1793, the answer of the House was unanimously adopted. It read in part:

"The United States having taken no part in the war, which has embraced in Europe the powers with whom they have the most extensive relations, the maintenance of peace was justly to be regarded as one of the most important duties of the magistrate charged with the faithful execution of the laws. We accordingly witness with approbation and pleasure the vigilance with which you have guarded against an interruption of that blessing by your proclamation admonishing our citizens of the consequences of illicit and hostile

* Richardson, *Messages and Papers*, vol. i., pp. 145-147.

* Irving, *Life of Washington*, vol. v., p. 202.

acts towards the belligerent parties, and promoting by the declaration of the existing legal state of things an easier admission of our right to the immunities belonging to our situation.*

The Senate declared the proclamation to be a "measure well-timed and wise, manifesting a watchful solicitude for the welfare of the nation, and calculated to promote it."†

Nearly three years before, the Secretary of the State had been instructed by the House to report on the nature and extent of the privileges granted to American commerce and the restrictions imposed upon it by foreign nations, being requested to suggest measures which would improve the commerce and navigation of the United States. For various reasons, the rendering of this report had been delayed, and not until Jefferson was about to leave the Cabinet was it presented to Congress. In fact, it was his last official act, for he resigned his office December 31, 1793.‡

* Richardson, *Messages and Papers*, vol. i., p. 144.

† *Ibid.*, vol. i., p. 143.

‡ See his letters and Washington's reply in Irving, *Life of Washington*, vol. v., p. 206; Ford's ed. of *Jefferson's Writings*, vol. vi., pp. 360, 366-367, 496. Marshall (vol. ii., p. 298) points out very clearly the opportune period of Jefferson's retirement, when the Federalists could not but praise the ability which he had conducted the correspondence with Genêt, and the Republicans were proud of his evident partiality for France and dislike of Great Britain. It would hardly have been possible for Jefferson to have continued much longer in the Cabinet without departing, to some extent, from the principles and views on public affairs which he held and defended on every occasion. Mr. Tucker (vol. i., p. 469) in this connection says: "It is certain.

According to this report, the exports of produce and manufactures from the United States were valued at \$19,587,055; and the imports, at \$19,823,060. Of the exports, \$9,363,416 went to Great Britain and her colonies; \$4,698,735 went to France and her dominions; and about \$2,000,000 each went to Spain and the Netherlands and their possessions. Of the imports, \$15,285,428 came from Great Britain; \$2,068,348 from France, and \$1,172,692 from the Netherlands. The American shipping amounted to 277,519 tons, of which 43,580 tons were employed in the trade with Great Britain and her dominions, while 116,410 tons were employed in the French trade, and 58,858 in trade with the Netherlands. Jefferson submitted a detailed account of the privileges granted to and the restrictions imposed upon American commerce, and then suggested measures by which these restrictions might be modified and counteracted. He said that the "following principles, being founded on reciprocity, appear perfectly just, and to offer no cause of complaint to any nation:"

"1. Where a nation imposes high duties on our productions, or prohibits them altogether, it may be proper for us to do the same by theirs; first burdening or excluding those productions which

that Monticello was, in this, and the two succeeding years, the headquarters of those opposed to the federal policy, and that few measures of the republican party in Congress, were undertaken without his (Jefferson's) advice or concurrence. He even had an agency in directing the attacks of the opposition journals," etc.

they bring here, in competition with our own of the same kind; selecting next, such manufactures as we take from them in greatest quantity, and which, at the same time we could the soonest furnish to ourselves, or obtain from other countries; imposing on them duties lighter at first, but heavier and heavier afterwards, as other channels of supply open. Such duties having the effect of indirect encouragement to domestic manufactures of the same kind, may induce the manufacturer to come himself into these States, where cheaper subsistence, equal laws, and a vent of his wares, free of duty, may insure him the highest profits from his skill and industry. And here it may be in the power of the State governments to co-operate essentially, by opening the resources of encouragement which are under their control.

* * * The oppressions on our agriculture, in foreign ports, would thus be made the occasion of relieving it from a dependence on the councils and conduct of others, and of promoting arts, manufactures and population at home.

"2. Where a nation refuses permission to our merchants and factors to reside within certain parts of their dominions, we may, if it should be thought expedient, refuse residence to theirs in any and every part of ours, or modify their transactions.

"3. Where a nation refuses to receive in our vessels any productions but our own, we may refuse to receive, in theirs, any but their own productions.

"4. Where a nation refuses to consider any vessel as ours which has not been built within our territories, we should refuse to consider as theirs, any vessel not built within their territories.

"5. Where a nation refuses to our vessels the carriage even of our own productions, to certain countries under their domination, we might refuse to theirs of every description, the carriage of the same productions to the same countries. But as justice and good neighborhood would dictate that those who have no part in imposing the restriction on us, should not be the victims of measures adopted to defeat its effects, it may be proper to confine the restrictions to vessels owned or navigated by any subjects of the same dominant power, other than the inhabitants of the country to which the said productions are to be carried. And to prevent all inconvenience to the said inhabitants, and to our own, by too sudden a check on the means of transportation, we may continue to admit the vessels marked for future exclusion, on an advanced tonnage, and for such

length of time only, as may be supposed necessary to provide against that inconvenience."*

Though ostensibly this report dealt with commercial matters only, Jefferson was far from thinking that his panacea for commercial ills was good for nothing else. Numberless times, both before and after the submission of this report, he had stated that the power to regulate commerce gave Congress the means of righting its wrongs without war. Writing to Madison in March of 1793, he said:

"The idea seems to gain credit that the naval powers combining against France will prohibit supplies, even of provisions, to that country. Should this be formally notified, I suppose that Congress would be called, because it is a justifiable cause of war; and as the executive cannot decide the question of war on the affirmative side, neither ought it to do so on the negative side, from preventing the competent body from deliberating on the question. But I should hope that war would not be their choice. I think it will furnish us a happy opportunity of setting another precious example to the world, by showing that nations may be brought to do justice by appeals to their interests as well as by appeals to arms. I should hope that Congress, instead of a declaration of war, would instantly exclude from our ports all the manufactures, produce, vessels, and subjects of the nations committing this aggression, during the continuance of this aggression, and till full satisfaction is made for it."

On January 3, 1794, after the House had gone into Committee of the Whole, Madison offered a series of resolutions for the consideration

* This report will be found in Ford's ed. of Jefferson's *Writings*, vol. vi., pp. 470-484, and the supplementary report, pp. 491-494; and in *American State Papers, Foreign Relations*, vol. i., pp. 300-304. For a criticism, see Gibbs, *Administrations of Washington and Adams*, vol. i., p. 119.

of the members.* In substance, these resolutions declared that the interests of the United States would be promoted by further restrictions and higher duties, in certain cases, on the manufactures and navigation of foreign powers. The additional duties were to be imposed upon certain articles manufactured by those European nations which had no commercial treaties with the United States, the articles selected being leather, wool, iron, steel, copper, brass, pewter, cotton, silk, hemp, and flax and their manufactures. Reciprocity was required in navigation, save in the case of the West Indies, and on foreign vessels engaged in this trade higher tonnage duties and additional duties on their cargoes were to be imposed. The last resolution declared that the losses sustained by American citizens by the operation of decrees or regulations of foreign countries contravening the laws of nations, ought to be ascertained and reimbursed out of the additional duties on the manufactures and vessels of those nations which had established such regulations.† Benton says:

"The debate on this subject was one of the most elaborate and most replete with knowledge of commercial principles and statistics, which our Congress has furnished. * * * In this great debate, as in that upon the bank of the United States, the genius of Hamilton and Jefferson were pitted against each other, each having made opposite reports on each question, which were the magazines from which the opposing speakers in Congress chiefly armed themselves.—Mr. Madison

* See Rives, *Life of Madison*, vol. iii., p. 383 *et seq.*

† McMaster, vol. ii., pp. 179–180.

being the chief exponent of the Jeffersonian side, and Mr. William Smith of South Carolina * that of General Hamilton." †

On February 3 the first resolution, providing for discriminating duties in favor of such nations as had treaties of commerce with the United States, was passed by a majority of 5—51 to 46.‡ In the debate on this resolution, the New England members were allied in opposition, while the Southern States were united in its favor. This is remarkable, since the New England States were supposed to have suffered most by the restrictions imposed on their commerce, whereas the Southern States, being largely non-commercial, had suffered but little. The chief argument against the resolution was made by Smith, of South Carolina, who said that, if this method of retaliation were carried out, we should become involved in war with England. In advocating his views, Madison said that the object was the same as that of the British Navigation Act, which had given England command of the sea, and he disputed the soundness of the facts adduced by those who questioned the wisdom of the resolution. He contended that America would

* The substance of this speech being furnished by Hamilton. See Lodge's ed. of *Hamilton's Works*, vol. iii., p. 423; *Annals of Congress*, 3d Congress, 1st session, pp. 174–209; Schouler, *United States*, vol. i., p. 280.

† *Abridgment of Debates*, vol. i., p. 458. For a full and careful abstract of the arguments on these resolutions of Mr. Madison, see Marshall, *Life of Washington*, vol. ii., pp. 299–314; also McMaster, vol. ii., p. 180 *et seq.*

‡ Gordy, *Political History*, vol. i., p. 230.

gain more by exclusion and contest than from conciliating and stooping to a power which had slighted her, and, that as England was now engaged with a struggle with France, the present was the most propitious time in which to bring her to reason. He said that we consumed twice as much of England's goods as she did of ours, and that a reprisal would injure her just that much more than the United States; but England would be doubly injured, as she could not obtain even the raw materials she needed and thus would not have the manufactures to sell even to other countries, while, on the other hand, the fact that manufactured articles were no longer coming from England would stimulate American industries. He said that the idea of war was ridiculous and at present would be most imprudent. He said that England was more vulnerable in her commerce than in her army and navy and that we ought to try "commercial weapons" first, for England valued our markets far more than she feared our frigates or armies.*

When the second resolution came up for consideration, Fitzsimons moved an amendment extending its operation to all nations. This motion was superseded by another made by Nicholas, of Virginia, by which all nations except Great Britain were exempt from its operation. But while this subject was under consideration,

a motion to adjourn was made and carried by a majority of 5; the advocates of the measure voting for the postponement, whereas the opponents voted against it. Before the subject was resumed in the House, news arrived of the British order in council of November 6, 1793, relating to the French West India trade. At the same time came accounts of Lord Dorchester's speech to the Indians, and it was feared that this might produce war on the frontiers.* Hostility against England was now aroused afresh, and early in the session the House appointed a committee to estimate the cost of placing the principal seaports of the country in a state of defence, for it was evident that should the dispute finally result in war some steps would have to be taken to resist aggressions on the part of England. It was evident also that some adjustment of the difficulties ought quickly to be made, for the merchants of the country were beginning to suffer keenly from the depredations of foreign war vessels. Writing to Jefferson March 12, 1794, Madison says:

"The merchants, particularly of New England, have had a terrible slam in the West Indies. About one hundred vessels have been seized by the British for condemnation on the pretext of enforcing the laws of the Monarchy with regard to the Colony trade. The partisans of England, considering a war as now probable, are endeavoring to take the lead in defensive preparations, and to acquire merit with the people by anticipating their wishes. This new symptom of insolence and enmity in Great Britain shews either that

* Hunt, *Life of Madison*, p. 225.

* Schouler, *United States*, vol. i., pp. 281-283.

she meditates a formal war, as soon as she shall have crippled our marine resources, or that she calculates on the pusillanimity of this Country, and the influence of her party, in a degree that will lead her into aggressions which our love of peace can no longer bear. The commercial propositions are, in this state of things, not the precise remedy to be pressed as first in order; but they are in every view, in any event, proper, to make part of our standing laws, till the principle of reciprocity be established by mutual arrangements." *

The members of Congress, however, radically differed as to what measures should be adopted. The opponents of the administration favored the adoption of commercial restrictions, while its supporters favored another course, the members submitting plans to the House in accordance with their diverse views. On March 12 Sedgwick introduced sundry resolutions, the purport of which was that 15,000 troops be enlisted for two years; should war break out within that time between the United States and any European nation, these troops were to be bound to serve three years from the commencement of the war,—if the war continued that long. These troops were to receive no pay until the war began, save that 50 cents per day be given them for each day's military training.† The President was author-

ized also to lay an embargo for forty days, should he deem such a course necessary.*

The attempt to take this resolution under consideration was ineffectual, and on March 14 the discussion of Madison's resolution was resumed, when the debates grew exceedingly heated. The opponents of the measure contended that as a peace measure it was impolitic and as a war measure it was inadequate, for the great injuries which the United States had received demanded a more energetic course; that the time had arrived when war preparations must be seriously considered; and that, unless these injuries were speedily redressed, war was inevitable. The advocates of the measure claimed that the proposed plan was adequate, and argued that its adoption would not

called British party. From the federalists originated the embargo, the navy, the additional troops and the provincial army. In all these measures, they were encountered by the majority of the opposition. The conduct of the anti-federalists was indeed extraordinary. While on the other hand, they opposed to the utmost, the establishment of a small naval force for the suppression of the Algerine cruisers, and recommended in lieu thereof, the purchase of peace with those pirates; on the other, they passed every measure which could plunge the country into a war with the most powerful maritime nation in the world; and the principal weapons with which they proposed to coerce her, were commercial restrictions, non-intercourse and the sequestration of the debts due to her subjects."—Gibbs, *Administrations of Washington and Adams*, vol. i., p. 122.

* Madison's *Works* (Congress ed.), vol. ii., pp. 6-7.

† "The probability of a war with England was increased during the winter, not only by the violent hostility of the opposition, but by the conduct of that power itself; and it became evident, that the defensive preparations recommended by the president, were absolutely necessary. Measures for this purpose were accordingly introduced; and let it be remembered, by the so-

* Hunt, *Life of Madison*, p. 226. Madison wrote to Jefferson that Hamilton had prompted Sedgwick's motion and that it was only the "old trick of turning every contingency into a resource for accumulating force in the government."

preclude any other that might be proposed. That it probably never was the intention of the Federalists to allow the country to be plunged into war with England, is indicated by various private letters. Writing to a friend May 3, Oliver Wolcott says: "During this interesting period, the duty of an American citizen, above all, is to come to an absolute determination that we will on no account become a party to the war." * On March 26, in an effort to prevent further depredations on American commerce, Congress authorized the President to lay an embargo for a term of thirty days on all ships and vessels in American ports bound to any foreign port or place.† Sedgwick's resolutions for raising troops were defeated, and he proposed "that measures ought immediately to be taken to render the force of the United States more efficient." This proposition was referred to a committee which sug-

gested that the military force of the country be augmented and that the President be authorized to call on the State executives to organize 80,000 militia for service at the call of the nation.*

Smith, of South Carolina, now urged the subject of indemnity to the owners of vessels and cargoes which had been captured by any of the belligerent powers, introducing a resolution to that effect. As he considered it proper to designate the fund from which this indemnity should be paid, Jonathan Dayton, on March 27, introduced two resolutions for sequestering all debts due British subjects, and for taking measures to secure their payment into the United States treasury.‡ Before any action was taken on these resolutions, Clark introduced a resolution prohibiting intercourse with Great Britain until that country should fully compensate the citizens of the United States for all injustices done by any armed vessels or any person or persons acting under British authority, and until the western posts should be turned over to the United States government.‡

On April 4 the President submitted to Congress a letter from Mr. Pinck-

* Gibbs, *Administrations of Washington and Adams*, vol. i., p. 136.

† The embargo was laid March 26 and continued to May 25, 1794, when "amidst the hearty curses of the people," it was lifted. McMaster, vol. ii., pp. 173-174. See also Madison's *Works* (Congress ed.), vol. ii., p. 8. Writing to his wife April 1, 1794, John Adams says: "The embargo begins to be felt by many who have been the most noisy and turbulent. * * * But the foolish tradesmen and laborers, who were so ready to follow the heels of their scheming leaders, are now out of employment, and will lose thirty dollars a head by this embargo. If they had been taxed half the sum to the most necessary and important measure, they would have bitterly complained. I can see little benefit in the embargo, except that it may cool down the courage of such kind of people."—John Adams, *Works*, vol. i., p. 469.

* McMaster, vol. ii., p. 186.

† *Ibid*, note; *Annals of Congress*, 3d Congress, 1st session, pp. 535-556; Schouler, *United States*, vol. i., pp. 283-284.

‡ McMaster, vol. ii., p. 187, note. For the debates on the sequestration of British debts and non-intercourse with Great Britain, see Benton, *Abridgment of Debates*, vol. ii., pp. 482-498. See also Madison's *Works* (Congress ed.), vol. ii., p. 10.

ney, enclosing copies of instructions issued to the commanders of British war vessels, dated January 8 and revoking those of November 6, by which such war vessels were directed to bring in neutral vessels only, laden with cargoes, the produce of the French Islands, and which were on a direct voyage from those islands to Europe.* Pinckney transmitted also the details of a conversation with Lord Grenville, concerning the order in council of November 6, 1793.† The Federalists were greatly interested by Pinckney's communication, and, believing that an amicable adjustment of the contentions between the two nations could still be made, opposed all measures calculated to irritate Great Britain, or that might be construed into a dereliction of the neutral character they desired to maintain. At the same time they lent their influence to such measures as provided for placing the country in readiness for war, should peace negotiations fail. The Republicans continued to oppose such measures and endeavored to keep alive and to increase the hostility toward England.‡ Marshall says: "Language will

scarcely afford terms of greater outrage, than were employed against those who sought to moderate the rage of the moment. They were denounced as a British faction, seeking to impose chains on their countrymen. Even the majority was declared to be but half aroused, and to show little of that energy and decision which the crisis required."*

In connection with the debate on the Non-Intercourse resolution, several facts are worthy of note: first, that though Great Britain had inflicted the greatest damage on the commerce of New England, the Congressmen of that district almost to a man opposed the measure, the ostensible object of which was to protect that commerce; second, that the Southern members, representing a non-commercial section, favored it almost unanimously; third, that the Federalists wished to adjust the dispute by negotiation, while in the meantime preparing for war ("to speak softly but use the big stick"); and fourth, that the Republicans opposed alike all peace negotiations and preparations for war. It would not be correct to state, however, that the antagonistic interests of the two sections were responsible for the differences between Federalists and Republicans. Madison did not favor commercial restrictions simply because the New England commerce, and not that of Virginia, would be hampered thereby, though probably

* *American State Papers, Foreign Relations*, vol. i., pp. 430, 431; Lodge, *George Washington*, vol. ii., p. 173.

† Irving, *Life of Washington*, vol. v., p. 215.

‡ John Adams says: "You cannot imagine what horror some people are in, lest peace should continue. The prospect of peace throws them into distress. Their countenances lengthen at the least opening of an appearance of it. Glancing gleams of joy beam from their faces whenever all possibility of it seems to be cut off."—*Works*, vol. i., p. 471.

* Marshall, *Life of Washington*, vol. ii., p. 322.

the attitude of Jefferson and Madison would have been somewhat different had Virginia been a commercial State (since the loss to their constituents would have had great weight with them and would have compelled them to scrutinize more carefully the arguments advanced to show how this loss would eventually be made good). The Republicans thought that the best policy for the country was to cultivate the commercial friendship of France rather than that of England.*

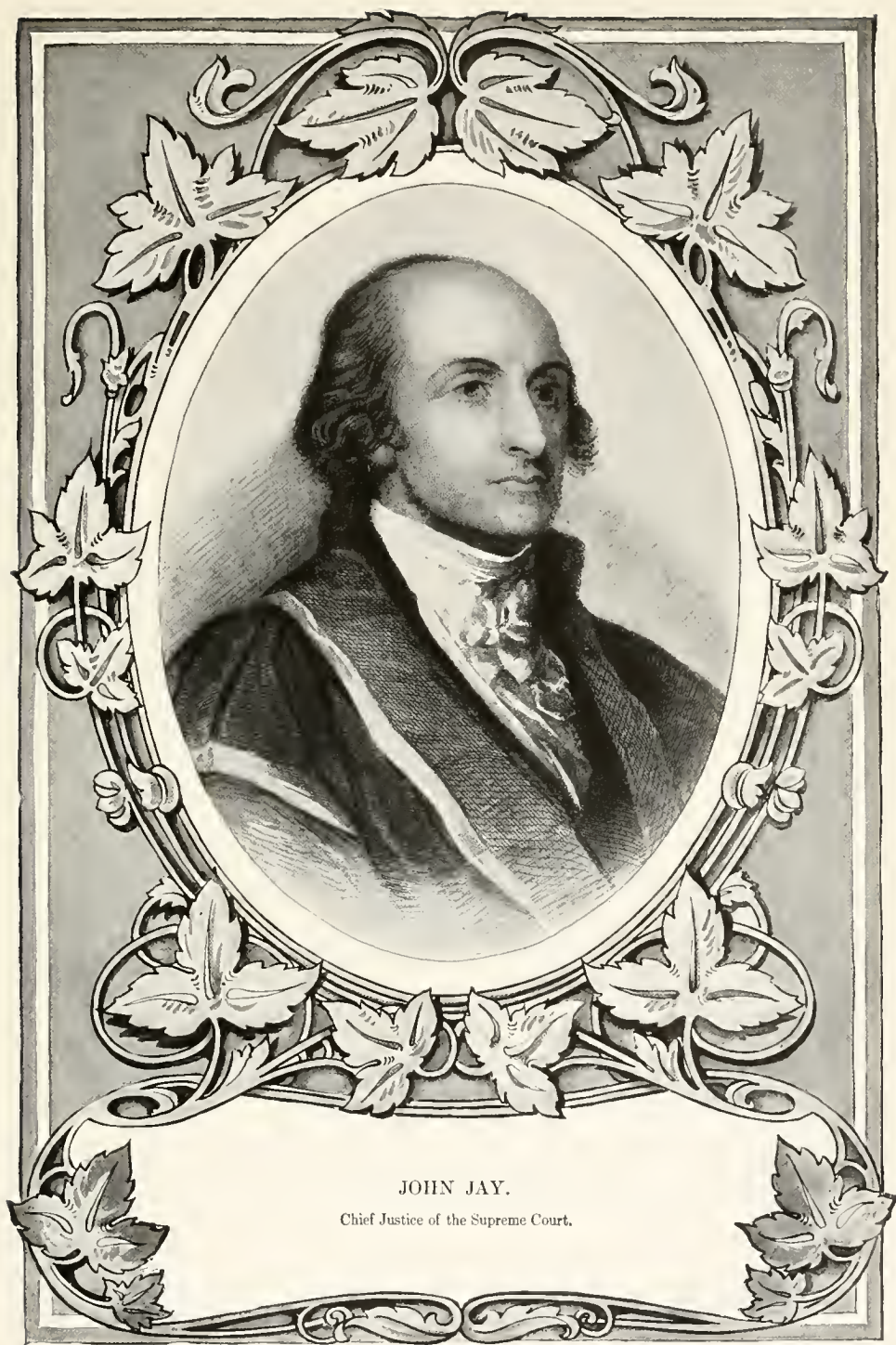
The Federalists were less eager to avoid war out of fear that it would tend to create a strong central government; yet the charge of Hamilton's enemies that he *desired* a war simply to strengthen the government, appears to have been groundless, for he was too astute a statesman not to see the disasters and disadvantages that a war would bring to the Nation. He, in common with all intelligent men of his day, realized that war would place a heavy burden upon the young government, would disarrange the finances, ruin many industries, and possibly endanger the stability of the Nation itself. The Republicans opposed negotiations probably because they thought commercial restrictions were sufficient to compel the acknowledgment of American commercial rights, and a treaty would only hinder this object. They thought the best treaty obtainable might deprive the country of its most power-

ful weapon. Furthermore, they considered that France was fighting for liberty, and England for despotism, and therefore to make a treaty with the latter was to become an enemy of France and liberty. The effect of this "revolutionary madness" upon the people is clearly shown by the debates in Congress. In speaking of the debates on Madison's resolutions, Tracy says: "This discussion has assumed an appearance which must be surprising to a stranger and painful to ourselves. The Congress of the United States is seen deliberating, not upon the welfare of our own citizens, but upon the relative circumstances of two European nations, and this deliberation has not for its object the relative benefit of their markets to us, but which form of government is best and most like our own, and what measures we can adopt which will best humble one and exalt the other."*

Despite the conflicting opinions of Congressmen, newspapers, and private individuals, Washington was not to be driven from the course which he considered right and just. He looked upon war as a last resort and considered peace essential to the prosperity of the country. He wished also to prevent the consummation of any entangling alliance with France. He was convinced that the contentions between the United States and England had not reached a point

* Gordy, *Political History*, vol. i., pp. 233-234.

* See also Gordy, vol. i., pp. 235-236.



where it would be dishonorable to negotiate for a settlement, and he resolved to act accordingly. On April 16 he nominated Chief Justice Jay as envoy-extraordinary of the United States to the British Court.* In nominating Jay, he said:

"The communications which I have made to you during your present session from the dispatches of our minister at London contain a serious aspect of our affairs with Great Britain. But as peace ought to be pursued with unremitted zeal before the last resource, which has so often been the scourge of nations, and cannot fail to check the advanced prosperity of the United States, is contemplated, I have thought proper to nominate,
* * *

"My confidence in our minister-plenipotentiary in London continues undiminished. But a mission like this, while it corresponds with the solemnity of the occasion, will announce to the world a solicitude for a friendly adjustment of our complaints, and a reluctance to hostility. Going immediately from the United States, such an envoy will carry with him a full knowledge of the existing temper and sensibility of our country, and will thus be taught to vindicate our rights with firmness and to cultivate peace with sincerity."†

Washington stated his views more particularly to the Secretary of State

* Speaking of the objections of the Republicans to the appointment of John Jay, Tucker says it was "urged by them that those invested with judicial authority should not mingle in other concerns, and still less, with those of party politics, lest they should carry their political feelings on the bench; and that, if the judges could be rewarded with offices of greater distinction and emolument, it would favor that spirit of dependence, against which the Constitution meant to guard, in providing that their offices should not be taken away, nor their salaries diminished; and that the only effectual way of securing their independence, was to make them as inaccessible to the hope of reward, as to the fear of punishment."—*Life of Jefferson*, vol. i., p. 481.

† Richardson, *Messages and Papers*, vol. i., pp. 153–154. See also Foster, *Century of American Diplomacy*, pp. 159–160.

the day preceding Jay's nomination.* He said, among other things: "My objects are to prevent a war, if justice can be obtained by fair and strong representations of the injuries which this country has sustained from Great Britain in various ways, to put it in a complete state of military defense, and to provide eventually for the execution of such measures as seem to be now pending in Congress, if negotiation in a reasonable time prove unsuccessful."† He said further: "If he succeeds, well; if he does not, why, knowing the worst, we must take measures accordingly."‡ Though Jay's nomination was opposed by Burr, Monroe and others, it was approved by the Senate April 19, by a vote of 18 to 8.||

In spite of the fact that Jay was about to start out possibly to settle the dispute and to effect a commercial treaty, the opponents of the administration in Congress forced action, and finally on April 21, succeeded in passing a bill which cut off all commercial intercourse with Great Brit-

* Mr. Randolph had been appointed Secretary of State early in January of 1794 and was succeeded in the office of Attorney-General by William Bradford, January 27, 1794. (Conway, *Edmund Randolph*, p. 213.)

† Sparks, *Life of Washington*, p. 458. See also Lodge, *George Washington*, vol. ii., pp. 174–175; Conway, *Edmund Randolph*, pp. 214–220.

‡ Ford's ed. of *Washington's Writings*, vol. xii., p. 436.

|| See Pellew, *John Jay*, pp. 294–300; *Secret Journals of Congress. Foreign Affairs*, vol. iv., pp. 277–280; Treseot, *Diplomatic History*, pp. 102–105. Jay's instructions and the diplomatic correspondence will be found in *American State Papers, Foreign Relations*, vol. i., pp. 472–520.

ain. The vote on this bill was 58 to 38.* “Had this measure been carried through both branches of the legislature, there can be little doubt that it would have rendered the mission of Jay wholly abortive. The effect must have been to involve the United States, as a party, in a terrific contest then just beginning between the great powers of Europe. Peace depended upon the action of the Senate, and the Senate was almost equally divided. When the question came up for decision, on the 28th of April, upon two or three preliminary divisions, the opposition did not appear to rally; but on the passage of the bill to a third reading, the vote stood thirteen to thirteen. The Vice-President then exercised his privilege of a casting vote, and the measure was defeated.”† Owing to the adverse action in the Senate, the majority of the House desisted from pressing their views upon Congress.‡

* Hunt, *Life of Madison*, p. 227; *Madison's Works* (Congress ed.), vol. ii., p. 11; Schouler, *United States*, vol. i., p. 286; Benton, *Abridgment of Debates*, vol. i., p. 498.

† John Adams, *Works*, vol. i., p. 457; *Annals of Congress*, 3d Congress, 1st session, pp. 561-603.

‡ The action of Adams called forth a letter from Jefferson which clearly shows the drift of Republican sentiment. Speaking of the Senate, he thus writes to Madison: “This body was intended as a check on the will of the representatives when too hasty. They are not only that, but completely on the will of the people also, and, in my opinion, are heaping coals of fire not only on their persons, but on their body as a branch of the legislature. * * * It seems that the opinion is fairly launched into the public that they should be placed under the control of a more frequent recurrence to the will of their constituents. This seems requisite to complete the experiment whether they do more harm than good.”

Congress now proceeded to place the country in a state of defence. They voted \$160,000 for fortifications to be constructed at Portland, Portsmouth, Gloucester, Salem, Boston, Newport, New London, New York, Philadelphia, Wilmington, Baltimore, Alexandria, Norfolk, Ocracoke Inlet, Cape Fear River, Georgetown, Charleston, St. Mary's and Savannah.* The several States were required to maintain 80,000 militia, to be ready at a moment's notice; the exportation of arms was prohibited for a year; the duty on brass cannon, muskets, swords, cutlasses, musket balls, lead and gunpowder was taken off so as to encourage the importation of these articles; and a corps of artillerists and engineers was established. The President was authorized also to lay an embargo during the recess of Congress, whenever he should think public safety required it.

It was during this session that the foundations of the navy were laid, the agitation being started by the debate as to whether it would be easier to build a fleet to send to the Mediterranean or to appropriate the money to purchase peace, which finally (January 2) terminated in the decision to do both. The Committee of Ways and Means, to whom the matter was referred, suggested the building of four frigates, but the bill passed provided for six. The Republicans strenuously opposed

* McMaster, vol. ii., pp. 171-173.

the creation of a navy, for reasons clearly stated by William B. Giles, of Virginia. He said that this policy involved a complete suspension of the policy of discharging the principal of the public debt; that to increase the navy while decreasing the national debt was beyond the power of any nation; that of all the means of defence this was the most expensive (and the tyranny of governments consists in the expensiveness of their machinery); that the system of governments by indebtedness was the most refined system of tyranny; and that there was no device which so much facilitated the system of expense and debt as a navy. Nevertheless, a sufficient number of members gave the bill their support to pass it, and it quickly received the assent of the President.

Something had to be done to provide funds to meet the expenses made mandatory under these recent enactments, and on March 26, 1794, a resolution was passed appointing a committee of fourteen "to inquire whether any or what further or other revenues are necessary for the support of public credit; and if further revenues are necessary to report the ways and means." William Smith, of South Carolina, was chairman of the committee and in his report of April 17, 1794, stated that the ordinary deficit for the year would be \$425,633; that \$650,000 additional ought to be appropriated for the military service; and that the interruption to com-

merce would result in a loss of \$1,300,000 in duties under existing rates.* The committee proposed to supply the deficiency by an excise on carriages, auction sales, manufactured snuff, and sugar, by requiring licenses for selling wines and spirituous liquors at retail, by establishing stamp duties, by laying a direct tax on land, and by increasing the import duties on such articles as salt, coal, boots and shoes, coffee, cheese, refined sugar, etc.† When the measure was brought into Committee of the Whole, the direct tax was overwhelmingly defeated (50 to 32). The other excise measures as well as the bill increasing customs duties were passed. The impost bill was reported May 13, considered in Committee of the Whole on the 16th, and reported back to the House. The chief debates were on the salt and coal duties. The Pennsylvania and Western members defeated an additional tax of three cents on salt and succeeded in raising the duty on coal. The original bill was passed May 17, and with the Senate's amendments June 3; after an agreement had been reached respecting the amendments, it was signed by the President June 7, 1794.‡ The new duties were violently opposed, and that on carriages declared unconstitutional. In Virginia the collection of

* *American State Papers, Finance*, vol. i., pp. 276-278.

† Dewey, *Financial History*, pp. 106-109.

‡ Stanwood, *Tariff Controversies*, vol. i., pp. 108-110; Bishop, *History of Manufactures*, vol. ii., pp. 53-54.

the tax was disputed until the Supreme Court should decide as to its constitutionality.*

During the same session Congress adopted measures to prevent the infraction of the laws and sovereignty of the country by foreigners, and also to guard against infraction of neutrality by acts of American citizens. The enlistment of men within the territory of the United States in the service of any foreign prince or State was prohibited under a penalty of \$1,000 fine and imprisonment for three years (a measure clearly aimed to prevent a recurrence of such high-handed acts as those of Citizen Genêt). The arming of vessels in American ports to be employed in the service of any foreign prince or State, or for the purpose of committing hostilities on the subjects or citizens of any nation in amity with the United States, and the issuing of a commission to any vessel for such employment were prohibited; nor could the armament of any foreign vessel be increased in American ports. Those who organized any military expedition or enterprise to be sent from the United States against the dominions of any foreign power at peace with the United States were to be severely punished, and the President was authorized to use the land and naval forces to compel obedience.

While these dilatory negotiations

were in progress in the East, affairs in the West were assuming an ominous aspect. England still held sway in the region to the west of Ohio, where lived the Miamis, the Delawares, the Shawnees, the Ottawas and the Wyandots. Congress had treated these tribes as sovereign nations, five treaties having been made with them between 1783 and 1790. The first was with the Iroquois on October 22, 1784, at Fort Stanwix, by the terms of which the Iroquois surrendered all claims to the lands now comprising the States of Ohio, Indiana and Illinois.* Of the other treaties one was concluded at Fort McIntosh, on January 27, 1785, with the Chippewas, Delawares, Ottawas and Wyandots, by which these tribes surrendered all their lands, save in the region bordering on Lake Erie and lying between what is now Cleveland and the Maumee River;† another at Fort Finney on January 31, 1786, with the Shawnees, who acknowledged the right of the United States to lands acquired from Great Britain by treaty;‡ and two at Fort Harmar,

* Dunn, *Indiana*, p. 198; Cooley, *Michigan*, pp. 108-109; *American State Papers, Indian Affairs*, vol. i., pp. 10-11; *Journals of Congress*, vol. iv., p. 531; F. G. Hough, *Proceedings of the Commissioners of Indian Affairs in New York*, vol. i., p. 64; Stone, *Life of Brant*, and *Life of Red Jacket*; Hubbard, *Life of Red Jacket*, p. 58.

† Albach, *Annals of the West*, p. 433; Slocum, *The Ohio Country*, p. 35; Hulbert, *The Ohio River*, p. 165.

‡ *American State Papers, Indian Affairs*, vol. i., pp. 11-12; Henry Harvey, *History of the Shawnee Indians, 1681-1854*, chap. xv.; Albach, *Annals of the West*, p. 413.

* McMaster, vol. ii., p. 138. See also Madison's letters regarding this, in Madison's *Works* (Congress ed.), vol. ii., pp. 14, 16.

January 9, 1789, by General St. Clair, which merely confirmed the others.* No treaties, however, had been made with the Miamis, the Kickapoos, the Weas, the Pottawattamies or the Eel River tribes; and in 1790 measures were taken to open negotiations, but the emissaries sent out reported that the Indians were in an ugly mood.† The Canadians, quick to grasp the significance of the restlessness of the Indians, soon began to incite them to open defiance of the American authorities. The Canadians did not relish the idea of relinquishing the rich fur trade of the Northwest, and feared that, if the Indians came under the influence of the Ohio settlers, this fur trade (estimated to be worth \$450,000 a year) would be irretrievably lost.‡ The Canadian officials felt also that the western posts should not be given up, and endeavored to embroil the two nations involved by asserting that the attacks of American troops upon Indian tribes were disguised attacks on British posts.

Accordingly, the Canadian traders and officials endeavored to keep the Indians friendly by presents of ammunition and supplies, saying, when reproached for this, that these were only the supplies they regularly gave them in times of peace. But it is certain that they did not make very great efforts to induce the Indians to use these "supplies" in peaceful ways. In fact, the aid secretly given to the Indians by the Canadians fell little short of that openly extended to an avowed ally.* Thus, when the American officers tendered terms of peace and friendship to the Indians, their sachems would say: "The English commandant at Detroit is our father, and we cannot answer without consulting him."†

Therefore, Josiah Harmar was sent in September to attack the Indians on the Scioto and Wabash with an army of 1,453 men‡—partly militia and partly Federal troops—poorly armed, undisciplined, and inexperienced in Indian warfare.¶ So much time was

* *American State Papers, Indian Affairs*, vol. i., pp. 5–10; Dunn, *Indiana*, p. 198; Albach, *Annals of the West*, p. 517; Stone, *Life of Brant*, vol. ii., p. 280; McMaster, vol. i., p. 597; Harvey, *History of the Shawnee Indians*, chap. xv.; Cooley, *Michigan*, p. 108 *et seq.*; *St. Clair Papers*, vol. i., p. 156; *Magazine of American History*, vol. ix., p. 285; Lossing, *Field-Book of the War of 1812*, p. 39; Slocum, *The Ohio Country*, p. 46; Hulbert, *The Ohio River*, p. 169.

† On the events leading up to this, see Roosevelt, *Winning of the West*, vol. iii., pp. 277–302. For depositions relating to Indian depredations, see *American State Papers, Indian Affairs*, vol. i., p. 84 *et seq.*

‡ Spears and Clark, *History of the Mississippi Valley*, p. 333.

* Bassett, *Federalist System*, p. 62.

† See also the Journal of Antoine Gamelin, in *American State Papers, Indian Affairs*, vol. i., pp. 93–94.

‡ Of these 320 were regulars and the others consisted of three battalions of Virginia militia, one battalion of Pennsylvania militia, and one battalion of mounted light troops.—Lossing, *Field-Book of the War of 1812*, p. 41; *American State Papers, Military Affairs*, vol. i., p. 24; *Indian Affairs*, vol. i., p. 104; Slocum, *The Ohio Country*, pp. 54–56.

¶ Roosevelt, *Winning of the West*, p. 304. In his testimony Major Ferguson said that many were not armed at all and that numbers probably had never carried a gun. See *American State Papers, Military Affairs*, vol. i., pp. 20–21.

wasted in marching and in scouring the woods, that when the troops reached the villages of the Maumees they found nothing but empty huts, which were immediately destroyed.* Harmar then dispatched Colonel John Hardin, with 30 regulars and some Kentucky volunteers, to locate and attack the Indians; but, as Hardin was a poor officer, he allowed himself to be drawn into an ambush of 100 Indians under Little Turtle, about 11 miles from the site of Fort Wayne.† He fled, the militia abandoned their arms and ran;‡ the Federal troops under Armstrong were the only ones to stand their ground, Armstrong fighting until the last man fell at his side, when he escaped.¶ After a night of feasting and dancing over their tortured victims, the Indians, in their turn, advanced.

Hardin, overcome with shame, now returned to the main camp, and Harmar determined to return to the settlements, the march beginning October 21. Hardin, however, deeply stung by his defeat, persuaded Har-

mar to allow him to return to the Indian settlements in order to surprise the Indians. Consent finally being given to his project, Hardin set off with 340 militia and 60 regulars, and came upon the Indians near the site of the present city of Fort Wayne. The premature discharge of a gun revealed the presence of the troops, and the attack therefore began hastily. Victory was almost within grasp of the troops, when, disobeying their orders, the militia imprudently set out in pursuit of the Indians, thus leaving the regulars unsupported at their crossing place. Becoming alarmed at the loss of one of their officers, the militia finally fled, the Indians, in overwhelming numbers under Little Turtle, coming upon them and inflicting great slaughter.* When informed of the disaster, Harmar refused to prolong the contest, as he had lost all faith in his raw militia.† He decided that the Indians had been sufficiently punished, and furthermore, as his supplies were becoming much depleted, he thought it best to make a hasty retreat to the nearest settlement. Accordingly, the troops began the return journey to Fort Washington (Cincinnati), which they reached November 3. All went well until Chillicothe, on the Little Miami, was reached. There, in

* King, *Ohio*, pp. 243-244. By October 21 the army had destroyed five villages, besides the capital town, and consumed or destroyed nearly 20,000 bushels of corn in ears. Testimony of Lieutenant Denny, *American State Papers, Military Affairs*, vol. i., p. 25.

† *American State Papers, Military Affairs*, vol. i., p. 21; Lossing, *Field-Book of the War of 1812*, p. 41.

‡ Ferguson's testimony, *American State Papers, Military Affairs*, vol. i., p. 21.

¶ Roosevelt, *Winning of the West*, vol. iii., pp. 306-307. See also Captain Armstrong's testimony, *American State Papers, Military Affairs*, vol. i., pp. 26-27.

* Major Zeigler's and Captain Asheton's testimony, *American State Papers, Military Affairs*, vol. i., pp. 25-26, 28; Lossing, *Field-Book of the War of 1812*, p. 42; Roosevelt, pp. 308-310.

† Denny's testimony, *American State Papers, Military Affairs*, vol. i., p. 25.

an engagement, Harmar was defeated, with a loss of 200 men and a number of officers.* Harmar and Hardin were tried before a court-martial and were acquitted, but Harmar, who was suspected of having shown the white feather, presently (January 1, 1792) resigned his commission.†

But far from subduing the Indians, this expedition served rather to rouse the Wabash tribes to fury. The settlers in that region lived mostly in the vicinity of Marietta, which then contained 80 houses. There were a few houses at Belle Prairie where the Kanawha joins the Ohio, at Duck Creek, at Wolf Creek, and along the Muskingum, and a few more daring pioneers had gone 40 miles up the river, where they formed a small settlement at Big Bottom, about 12 families constituting the population of the town. The Indians, therefore, determined to retaliate by a series of massacres, beginning their work at

Big Bottom. This settlement was attacked on the night of January 2, 1791, and before morning it had disappeared from the face of the earth.* On January 8, 1791, Rufus Putnam sent a letter to Washington describing the massacre and asking for aid,† but the President had already done everything possible. Nevertheless, on December 8, 1790, two days after the third session of the First Congress assembled, in delivering his annual address, he said that the Indian outrages had “rendered it essential to the safety of the Western settlements that the aggressors should be sensible that the Government of the Union is not less capable of punishing their crimes than it is disposed to respect their rights and reward their attachments.” He added that, in order to do this, he had “authorized an expedition in which the regular troops in that quarter are combined with such drafts of militia as were deemed sufficient.”‡

The addresses of the two Houses were in harmony with the President's speech, and their consideration proceeded smoothly until the Indian affairs were reached. Then Jackson, of Georgia, arose in his seat and attacked the administration for its treaty with the Creeks. He was called to order, but said that he meant

* For details, see Moore, *The Northwest under Three Flags*, pp. 345-353; McMaster, vol. i., pp. 598-601. Harmar's despatches are in *American State Papers, Indian Affairs*, p. 104; but the main source is the *Proceedings of a Court of Inquiry held at the Request of General Josiah Harmar* (Philadelphia, 1791) which is also in *American State Papers, Military Affairs*, vol. i., pp. 20-36, and in *Annals of Congress*, 2d Congress, 1st session, pp. 1114-1150. See also the Journal of Ebenezer Denny, in *Publications of the Pennsylvania Historical Society*, vol. vii., pp. 204-498; Albach, *Annals of the West*, p. 547; Cist, *Cincinnati Miscellany*, vol. i.; Knapp, *The Maumee Valley*; Bryce, *Fort Wayne*; Smith, *St. Clair Papers*, vol. i., p. 168; H. Montgomery, *Life of Major-General William H. Harrison*, pp. 38-40.

† Lossing, *Field-Book of the War of 1812*, p. 43, note.

* McMaster, vol. i., pp. 601-602; Spears and Clark, *History of the Mississippi Valley*, p. 339.

† *American State Papers, Indian Affairs*, vol. i., pp. 121-122.

‡ Richardson, *Messages and Papers*, vol. i., p. 82.

at some future time to call for the Creek treaty, with its secret articles.

But the burning and scalping that had begun all along the Ohio, whence Harmar's troops fled, continued for some time,* and it was not until the spring and summer of 1791 that a semblance of order was restored. Two expeditions—one under General Charles Scott, consisting of 800 men,† and the other under Colonel James Wilkinson, with 525 men—had been sent out in May and August respectively, but no results of any moment came from these movements.‡ Jefferson said that Scott killed 32 warriors, took 58 men and children prisoners, and destroyed three towns and villages, with a great deal of corn in grain and growth.¶ Hence it was decided to send a stronger force against the Indians, chiefly to overawe them by building a chain of forts from the Cincinnati to the junction of the St. Mary and St. Joseph rivers. General St. Clair, governor of the Northwest Territory, was nominated and confirmed commander-in-chief.

With a force of 2,300 regulars and a body of militia, St. Clair marched into the wilderness, stopping first at the Great Miami, where he erected Fort Hamilton.* Later he pushed on 44 miles further, and on October 24, 1791, completed Fort Jefferson.† He had just marched inland when he was taken sick, food became scarce, and the roads were so bad that seven miles constituted a day's march. The troops now began to suffer from chills and fever, and every day scores deserted, as many as 60 going at a time.‡ At last, on November 3, St. Clair, with the remnants of his army (1,400 men) encamped on the banks of the Wabash, within a few miles of the Miami villages. It was his intention to remain at this place until reinforced,|| but he was attacked by a body of 1,000 Indians before reinforcements came. Notwithstanding the warning of Washington and the similar disasters previously suffered by American

* See *St. Clair's Narrative of his Campaign*, pp. 14-15 (Philadelphia, 1812). A plan of the fort is in Howe, *Historical Collections of Ohio*, p. 74, and in Winsor, *Narrative and Critical History*, vol. vii., p. 450.

† King, *Ohio*, p. 245; Roosevelt, *Winning of the West*, vol. iv., p. 32; Lossing, *Field-Book of the War of 1812*, p. 46.

‡ See St. Clair's letters in *American State Papers, Indian Affairs*, vol. i., pp. 136-138, and the letters and reports in *Annals of Congress*, 2d Congress, 2d session, pp. 1052-1059, 1106-1113, 1310-1317. See also the *Diary of Colonel Winthrop Sargent*, as quoted in Irving, *Life of Washington*, vol. v., pp. 107-108. See also the report of Fitzsimons in *American State Papers, Military Affairs*, vol. i., p. 37; Hulbert, *The Ohio River*, p. 176 et seq.

|| Montgomery, *Life of W. H. Harrison*, p. 44.

* For details, see Roosevelt, *Winning of the West*, vol. iv., p. 19 et seq.

† His instructions are in *American State Papers, Indian Affairs*, vol. i., pp. 129-130.

‡ Lossing, *Field-Book of the War of 1812*, p. 45; Irving, *Life of Washington*, vol. v., p. 106; Roosevelt, *Winning of the West*, vol. iv., pp. 28-30; Montgomery, *Life of W. H. Harrison*, pp. 42-43.

¶ Letter to William Short, July 28, 1791. Ford's ed. of *Jefferson's Writings*, vol. v., p. 366. See also p. 368. Scott's and other reports are in *American State Papers, Indian Affairs*, vol. i., p. 131 et seq. See also Slocum, *The Ohio Country*, pp. 63-66.

armies, St. Clair allowed himself to be surprised.* The militia posted in front were driven back upon the regulars in great disorder, and St. Clair's efforts to rally them were unavailing.† He made the mistake of adhering to the rules of the military manuals, drawing up his forces in a compact body with the artillery in the centre. The Indians completely surrounded the Americans and poured in such a deadly fire from the nearby thickets that the field was soon strewn with wounded, dying and dead. The result was decisive. Though several bayonet charges were made, the Indians could not be beaten off, but returned to the fight with renewed vigor.‡ Five officers were now killed and scalped, the others being so severely wounded that they could scarcely stand. After maintaining the contest for four hours, General St. Clair, being himself indisposed, ordered a retreat, and thus the remainder of his army was saved from total annihilation. Leaving their guns in position, clothing and

blankets in the tents, and abandoning the sick and wounded to the tender mercies of the Indians, the troops fled, in their flight throwing away muskets, coats, hats, and boots.* For some distance the retreating army was closely pursued by the Indians, but the chase was soon abandoned, the Indians returning to commit further barbarities on the wounded and to share in the spoils of the camp.† St. Clair retreated to Fort Jefferson and later to Fort Washington. In this fight the slaughter was almost unparalleled. Of the American forces that went into the battle, more than 625 were killed and missing, and 260 wounded, only 510 men and 70 officers coming out unscathed.‡ Of the Indian

* St. Clair's letter of November 9, 1791, in *American State Papers, Indian Affairs*, vol. i., pp. 137-138; Dillon, *History of Indiana*, vol. i., p. 308 (ed. 1843); Cist, *Cincinnati Miscellany*, vol. ii., p. 39; Roosevelt, vol. iv., pp. 43-44; Lossing, p. 48; Sloeum, *The Ohio Country*, p. 71.

† McMaster, vol. ii., p. 46; Schouler, *United States*, vol. i., pp. 210-212. See also the ballad "Sainclair's Defeat" in *King, Ohio*, pp. 409-412.

‡ Roosevelt (*Winning of the West*, vol. iv., p. 47) gives the number killed as 630 and of wounded as 280. Lossing (*Field-Book of the War of 1812*, p. 48 note) makes the loss 36 officers killed and 30 wounded, 593 privates killed and missing, and 214 wounded. See also Montgomery, *Life of W. H. Harrison*, p. 47. On the manner in which Washington received news of the defeat, see Irving, *Life of Washington*, vol. v., pp. 115-117. Lear described the scene as follows: "Here," said Washington, "yes, HERE, on this very spot, I took leave of him. I wished him success and honor. You have your instructions, I said, from the Secretary of War. I had a strict eye to them, and will add but one word—*Beware of a surprise!* I repeat it—BEWARE OF A SURPRISE! You know how the Indians fight us. He went off with that, as my last solemn warning, thrown into his ears. And yet! to suffer that army to

* Roosevelt, *Winning of the West*, vol. iv., pp. 33, 35. For some time Indians had been hovering about the army, but "the general observed that he did not think the Indians were watching the motions of the army with a view to attack them, other than steal horses or catch a person if they had a chance." See the journal quoted in Hulbert, *The Ohio River*, p. 180.

† *American State Papers, Military Affairs*, vol. i., p. 37.

‡ Lossing, *Field-Book of the War of 1812*, p. 48; the account of Lieutenant Denny, quoted in Sloeum, *The Ohio Country*, pp. 68-74; Roosevelt, vol. iv., pp. 39-40. A plan of the battle is in Howe, *Historical Collections of Ohio*, p. 133, and in Winsor, *Narrative and Critical History*, vol. vii., p. 450.

losses it was impossible to obtain a correct estimate. Shortly afterward Congress instituted an investigation of St. Clair's conduct, but he was exonerated from all blame,* the more readily, perhaps, since this enabled Congress to put part of the blame upon Hamilton and Knox for the inadequate supplies of the expedition. But so great was the indignation of the country against St. Clair that it was impossible to keep him in commission until the investigation should be completed. The President requested St. Clair to resign the major-generalship, promptly appointing Anthony Wayne in his place. St. Clair retained the office of governor, however, until 1802, when he was removed. In 1812 he published a *Narrative of the Manner in Which the Campaign against*

the Indians in the year 1791 was Conducted under the Command of Maj. Gen. St. Clair, with his Observations on the Statements of the Secretary of War. St. Clair's last years were passed in poverty.*

For some time the Indians continued to maintain a hostile attitude, and the government pushed preparations for prosecuting the war. As we have seen, General Wayne succeeded General St. Clair in command of the army; but—so small were the inducements to enter the service—the ranks filled up very slowly and only with the worst class of recruits. Therefore the expedition could not be undertaken for some time.†

Meanwhile the clamor against the war continued so loud and persistent that it was thought advisable to seek peace by negotiation, but the emissaries dispatched for this purpose (Freeman and Girard to the Miamis, April 7, and Captain John Hardin and Major Alexander Trueman to the Northern tribes, May 20) were murdered by the savages.‡ Rufus Putnam, who was sent on a similar mis-

be cut to pieces, hacked, butchered, tomahawked by a surprise—the very thing I guarded him against! O God! O God! he is worse than a murderer! How can he answer it to his country? The blood of the slain is upon him—the curse of widows and orphans—the curse of Heaven!”

* See Moore, *The Northwest under Three Flags*, pp. 353–358; “Causes of the Failure of the Expedition against the Indians, in 1791, under the Command of Major-General St. Clair,” *American State Papers, Military Affairs*, vol. i., pp. 36–41; Lodge, *George Washington*, vol. ii., p. 93 *et seq.*; Drake, *Book of the Indians*, book v., chap. iv.; Dawson, *Battles of the United States*, vol. ii., chap. ii.; Lossing, *Field-Book of the War of 1812*, p. 47; Stone, *Life of Brant*, vol. ii., p. 309; Winthrop Sargent's journal in *American Historical Record*, vol. i., p. 481; the diaries and other records in the *American Pioneer*, vol. i., p. 43; vol. ii., p. 135 *et seq.*; *Massachusetts Historical Society Collections*, vol. iii., p. 21; *New England Historical and Genealogical Register* (1867), p. 339; Upham, *Life of Pickering*, vol. iii., p. 22; *Western Review*, vol. iii., p. 58.

* See Schouler, *United States*, vol. i., pp. 212–213.

† Stillé, *Wayne and the Pennsylvania Line*, pp. 322–323. Wayne said: “Men who are purchased from prisons, wheelbarrows and brothels at two dollars per month will never answer for fighting Indians.” See also Spears and Clark, *History of the Mississippi Valley*, pp. 342–343.

‡ Roosevelt, *Winning of the West*, vol. i., pp. 53–54; Slocum, *The Ohio Country*, p. 82. Trueman's instructions are in *American State Papers, Indian Affairs*, vol. i., pp. 229–230. See also Brant's letter in *ibid.*, p. 245.

sion,* succeeded in closing terms of peace with 31 members of the Wabash and Illinois tribes at Vincennes,† but this availed nothing with the strong tribes, who claimed to be directly under the influence and command of the British. These, on the contrary, became more active and daring than ever, continuing their raids into the settlements and demanding the return of all the lands north of the Ohio and west of the Muskingum. The Mohawk Brant urged the Indians to stand together in behalf of their ancestral hunting grounds; and in this attitude they were encouraged by the British, who hinted at the possibility of creating a neutral zone, running from Lake Ontario through the upper Northwest to the Mississippi, in which the Indians were to be sovereign. But it was manifest that this buffer State would be under the influence of the British.‡

In the summer of 1793 the Indians began to grow still more restless and unruly. During 1792 General Wayne had endeavored earnestly to negotiate a peace,|| with the only result that the Maumees and the Wabash Indians agreed to attend a general council for this purpose the following year. This was held at Sandusky in

the summer of 1793, but, though there were early indications of conciliation, the hopes for peace were dissipated through the unfriendly efforts of the British traders and of Simcoe, governor of Lower Canada. The council therefore proved futile.* Hence, in the autumn of 1793, the campaign against the Indians was vigorously resumed. As it was impossible to enter Indian territory and hold it, on account of the lateness of the season, Wayne established his troops for the Winter about six miles in advance of Fort Jefferson, took possession of the ground, and there erected Fort Recovery.† At this time Wayne's army consisted of 3,630 men, besides a small body of Choctaw Indians.‡

Meanwhile, under the pretext that they thought Wayne intended to attack Detroit, the Canadians sent a detachment of troops to the rapids of the Maumee, 60 miles to the southward, where a fort was erected and occupied.|| This was a violation of the treaty of 1783, since the spot was in no sense British territory, and therefore Washington ordered Wayne to attack the fort if it was in his way, driving the occupants from American territory. In February of 1794 a still

* His instructions are in *American State Papers, Indian Affairs*, vol. i., pp. 231-236, and his reports, p. 238 *et seq.*

† Slocum, *The Ohio Country*, p. 82.

‡ Bassett, *Federalist System*, p. 64.

|| Stillé, *Wayne and the Pennsylvania Line*, pp. 325-326. On the events leading up to the outbreak of hostilities, see Roosevelt, *Winning of the West*, vol. iv., p. 54 *et seq.*

* Slocum, *The Ohio Country*, pp. 86-91; Lossing, *Field-Book of the War of 1812*, p. 51. See also *American State Papers, Indian Affairs*, vol. i., pp. 351-361.

† Stillé, *Wayne and the Pennsylvania Line*, pp. 327-328; Roosevelt, *Winning of the West*, vol. iv., p. 71; Slocum, *The Ohio Country*, pp. 96-97.

‡ Lossing, *Field-Book of the War of 1812*, p. 51.
|| *Ibid.*, p. 52.

more aggravating circumstance arose when Lord Dorchester, governor of Canada, made a speech to the Indians in which he said that the Americans had not adhered to the terms of the treaty, that the settlements in the Northwest territory were unauthorized, that undoubtedly within a year the two nations would be at war, and that if so "a line must then be drawn by the warriors." Being widely circulated, this speech deeply impressed the savages and caused much excitement in Philadelphia.* The British partisans among the Americans said it was absurd to think Dorchester had ever made such a speech, the British minister adding that, if the speech had been made, it was a private communication. The government held that it made no difference whether it was public or private, the effect in either case being the same. The British government viewed the matter in somewhat the same light, and privately rebuked Dorchester for his ill-advised action.†

* Spears and Clark, *History of the Mississippi Valley*, pp. 346-347; Slooem, *The Ohio Country*, pp. 160-101. British historians, however, think there was nothing in this speech indicating a desire for war. A. G. Bradley (*The Making of Canada*, p. 206, 1908) says that if American writers had read the tedious and protracted correspondence between the Canadian governments and the frontier officers, they would have seen how baseless such accusations were.

† Bassett, *Federalist System*, pp. 66-67. See also note in Schouler, *United States*, vol. i., p. 283. On May 21, 1794, Washington sent to Congress the correspondence between the Secretary of State and the British minister respecting the conduct of the Governor-General. See *American State Papers, Foreign Relations*, vol. i., p. 461; Richard-

Wayne's troops were of the same nondescript character as those of St. Clair, but upon taking command Wayne had stipulated that the campaign should not begin until his ranks were full and his men thoroughly disciplined. During 1792, therefore, he contented himself with drilling officers and men with unwearied patience* until finally the officers were able to drill the recruits themselves and the men acquired the soldierly self-confidence of veterans. Wayne kept hard at work throughout the winter, and by the spring of 1793 had a body of 2,500 regular soldiers who could be trusted in a campaign.† The delays in transporting supplies through an uninhabited country postponed the opening of the campaign until near midsummer. Meanwhile several sharp skirmishes had taken place. Boats were attacked as they descended the Ohio; the remote settlements were mercilessly scourged; and bodies of rangers, spies or scouts, and trained Indian fighters were sent against these marauding bands, with varying

son, *Messages and Papers*, vol. i., p. 155. Other testimony will be found in *American State Papers, Indian Affairs*, vol. i., p. 795; Stone, *Life of Brant*, vol. ii., pp. 271, 366; Albach, *Annals of the West*, p. 542.

* Montgomery, *Life of W. H. Harrison*, p. 51; Spears and Clark, *History of the Mississippi Valley*, p. 344.

† Roosevelt, *Winning of the West*, vol. iv., pp. 68-70; Hulbert, *The Ohio River*, pp. 184-185. A plan of Fort Greenville, built by Wayne in December of 1793, will be found in Howe, *Historical Collections of Ohio*, p. 142, and in Winsor, *Narrative and Critical History*, vol. vii., p. 451.

success.* On June 30 a force of 1,000 Indians attacked Fort Recovery, at that time garrisoned by 200 men. After attacking and defeating a party of 200 troops and riflemen camped outside the fort, the Indians, trusting to their superior numbers, attempted to rush the fort and carry it by storm, but were beaten back with heavy loss. They maintained a desultory rifle fire against the fort during the next day, but finally retired.† The loss of the Americans was 55 killed, wounded and missing, while the Indians lost more than in their battle with St. Clair.‡

On August 8, 1794, Wayne reached the confluence of the Glaize (or Auglaize) and Maumee rivers, where lay the largest settlements of the Indians. The mouth of the Glaize was 30 miles distant from the post then occupied by the British on the Maumee River, and near this post the enemy, to the number of about 2,000, under Little Turtle, were gathered. In size Wayne's army was not much inferior to the Indians, and on July 26 a force of 1,600 mounted riflemen under General Charles Scott came from Kentucky, bringing up his force to more than 3,000.¶ On August 15

the American army advanced, and on the 18th arrived at Roche de Bout, near the Maumee Rapids, there halting in order to erect a temporary work to protect the baggage, naming it Fort Defiance.* The Indians were found to be behind a thick wood and in the vicinity of the British fort.†

At eight o'clock on the morning of the 20th the American army advanced in columns, the right flank being covered by the Maumee. On the left was a brigade of mounted volunteers under command of General Todd, and in the rear was the other brigade under command of General Barber. Major Price, with a select battalion, was in front, and, after proceeding about five miles, was attacked by the enemy and compelled to retreat.‡ The Indians had advanced into a thick wood in front of the British fort, a place made almost inaccessible to horses by fallen timber. Hence, this battle is known as the "Battle of the Fallen Timbers."¶ The Indians were drawn up in three lines extending about two miles at right angles to the river, and their greatest efforts were

* Roosevelt, *Winning of the West*, vol. iv., pp. 63-65, 71 et seq.

† *American State Papers, Indian Affairs*, vol. i., p. 487; Roosevelt, pp. 74-76; Slocum, *The Ohio Country*, pp. 102-106.

‡ Lossing, *Field-Book of the War of 1812*, p. 52, Wayne reports the total as given above, but others say more.

¶ Stillé, *Wayne and the Pennsylvania Line*, p. 330; King, *Ohio*, p. 252.

* Slocum, *The Ohio Country*, p. 111. Plans of the fort will be found in Howe, *Historical Collections of Ohio*, p. 144; Knapp, *The Maumee Valley*, p. 87; Lossing, *Field-Book of the War of 1812*, pp. 330, 333; *Harper's Magazine*, vol. xxvii., p. 154; Winsor, *Narrative and Critical History*, vol. vii., p. 452.

† King, *Ohio*, p. 255. A plan of the battle ground will be found in Howe, *Historical Collections of Ohio*, p. 319; Winsor, *Narrative and Critical History*, vol. vii., p. 454.

‡ Montgomery, *Life of W. H. Harrison*, p. 53; Lossing, *Field-Book of the War of 1812*, p. 54.

¶ Roosevelt, p. 84.

expended in an attempt to turn the left flank of the Americans. The Americans had been ordered to advance with trailed arms, to rout the Indians from their intrenchments at the point of the bayonet, and not to fire until they had reached the breastworks.* Perceiving that the Indians were attempting to turn the American left, a second line was ordered up and the cavalry under Captain Mis Campbell was ordered to penetrate between the Indians and the river, so as to charge their left flank, while General Scott, with the mounted volunteers, was to make a circuit and turn their right. These orders were promptly executed and with such impetuosity that the first line of infantry had completely routed the Indians before all of the second line and the mounted volunteers had gone into action.† The Indians were driven more than two miles back, and when the pursuit ended they were within gunshot of the British fort.‡ The loss of the

Americans in the battle was 33 killed and 100 wounded, of whom 113 were regulars, while the Indian loss was about two or three times as great.*

General Wayne remained in the vicinity three days, during which time his troops reduced to ashes the houses and corn fields surrounding the fort.† During these operations a correspondence took place between Wayne and Major William Campbell, the British commander, which shows that only the prudent acquiescence of the latter in the destruction of property within the range of his guns prevented hostilities between the troops of the two nations.‡ On the 28th the army returned to the Glaize by easy marches, on the way destroying all the villages and corn within 50 miles of the river. The whole country was laid waste and a fort was erected in the heart of the Indian settlements, so as to prevent the return of the Indians.|| Thus the country was

* Montgomery, *Life of W. H. Harrison*, p. 53.

† Wayne's report, August 28, 1794, *American State Papers, Indian Affairs*, vol. i., p. 491; Roosevelt, pp. 87-88; Montgomery, p. 53.

‡ See Wayne's report to the Secretary of War in Stillé, *Wayne and the Pennsylvania Line*, pp. 331-334; in *American State Papers, Indian Affairs*, vol. i., p. 491; and in Dawson, *Battles of the United States*, chap. ii. See also *American Pioneer*, vol. ii., p. 388; H. N. Moore, *Life of Wayne*; the sketch of Wayne by J. W. DePeyster in *Magazine of American History* (February, 1886); the journal of David Jones, in *Michigan Pioneer Collections*, vol. viii., p. 392; the journal of Lieut. Boyer, in *American Pioneer*, vol. i., pp. 315, 351; the account by Brickell, in *ibid.*, vol. i., p. 43; Albach, *Annals of the West*, p. 619; Knapp, *Maumee Valley*, p. 83; Stone, *Life of Brant*, vol.

ii., p. 383; Bonney, *Legacy of Historical Gleanings*, chap. iv.; Burnet, *Notes*, chaps. vi.-viii.; Withers, *Chronicles of Border Warfare*; Spears and Clark, *History of the Mississippi Valley*, pp. 349-351.

* Lossing, *Field-Book of the War of 1812*, p. 54; Roosevelt, p. 88; Montgomery, p. 55.

† Roosevelt, pp. 89-90; Slocum, *The Ohio Country*, p. 115.

‡ See the correspondence in *American State Papers, Indian Affairs*, vol. i., pp. 493-494; Stillé, pp. 335-336; Montgomery, p. 56 *et seq.*; Dillon, *History of Indiana*, pp. 352-355. See also Cooley, *Michigan*, pp. 115-116.

|| This was Fort Wayne on the Maumee, just below the confluence of the St. Mary's and St. Joseph's rivers. It was completed October 22. (Lossing, *Field-Book of the War of 1812*, p. 56.)

spared from a general war with the savages.*

On August 3, 1795, Wayne concluded a treaty of peace at Greenville with the chiefs of the Wyandots, Delawares, Shawnees, Miamis, Eel Rivers, Ottawas, Pottawattamies, Chippewas, Weas, Piankishaws, Kickapoos, and Kaskaskias.† By the terms of this treaty the Indians ceded to the United States the post at Detroit together with a considerable tract of land in what is now southern Ohio and southeastern Indiana.‡ A tract of land (to measure six miles on

Lakes Huron and Michigan and to extend three miles back from the water of the lake or strait)* was ceded also to the north of the island on which the post of Michillimackinac stood. Besides the Chippewas ceded De Bois Blanc, or White Wood Island. After the conclusion of the treaty, goods to the amount of \$20,000 were distributed among the Indians, who were also to receive \$9,500 yearly.‡ With this treaty and with the surrender of the posts in 1796, the North-western Territory became peaceful, quiet, and secure.‡

CHAPTER V.

1789-1795.

FOREIGN RELATIONS: SPAIN AND THE SOUTHWEST.

Spanish intrigues among the Westerners — The Yazoo Companies — Spanish intrigues among the Indians — McGillivray's negotiation of a treaty with the United States — Washington's message to Congress — Negotiations of Carmichael and Short — Spanish commercial restraints in Louisiana — Genêt's machinations — Discontent in the West — Pinckney's negotiation of the treaty of San Lorenzo el Real — Spanish protests.

While England was endeavoring to foment trouble in the Northwest,

Spain hoped to attach the West to her dominions. In 1763 Louisiana had been ceded to her by France, and in 1783 Florida had been returned to her by England. Spain denied the validity of the secret clause in the treaty of peace between England and the United States by which it was agreed that, if Florida were returned to Spain, the northern boundary

* Moore, *The Northwest Under Three Flags*, pp. 359-367; Marshall, *Life of Washington*, vol. ii., pp. 336-340; Roosevelt, vol. iv., p. 90 *et seq.*

† The full proceedings in connection with the negotiation of this treaty are given in Jacob Burnet, *Notes of the Early Settlement of the Northwestern Territory*, chaps. ix.-xii.; Stillé, *Wayne and the Pennsylvania Line*, pp. 337-339; Roosevelt, *Winning of the West*, vol. iv., p. 95 *et seq.*; Slocum, *The Ohio Country*, pp. 120-143; Albach, *Annals of the West*, p. 657; Harvey, *History of the Shawnee Indians*, chaps. xviii.-xix.; Knapp, *Maumee Valley*, p. 355; *American State Papers, Indian Affairs*, vol. i., pp. 526-529, 547-550, 562-583 (proceedings and text of treaty).

‡ Cooley, *Michigan*, pp. 117-118.

* Dunn, *Indiana*, pp. 265-266.

† King, *Ohio*, p. 257.

‡ See Winsor, *The Western Movement*, chaps. xix., xx., xxii.; McLaughlin, *Western Posts and British Debts*, p. 413.

would be the 31st degree. Spain had seized Natchez during the war and claimed that England had no right to cede the region which was not then in her possession. England replied that, even if the simple seizure of one fort could be regarded as occupation of the whole territory, the ownership was not transferred unless expressly stipulated in the treaty terminating the war. Spain held tenaciously to the navigation of the Mississippi, and, holding both banks for 200 miles from the mouth of the river, was in a position to enforce her claim. She was willing to grant either equal privileges on the river or commercial concessions in South America, but would not grant both favors. Jay's treaty of 1786 had been defeated in the old Congress, and the Westerners, still fearful that their interests might be sacrificed, had openly courted plans whereby a separation from the East might be accomplished. Spain had coveted these rich young communities in the West, and had kept skillful agitators in the region to create sentiment among the people favorable to Spanish interests. Some of the Americans themselves were subsidized, among them James Wilkinson, who was for many years in the pay of the Spanish governor, working up public sentiment in favor of his employer.* He had no scruples of con-

science about accepting this Spanish retainer, even after he had attained high rank in the American army.*

As has already been related, there was considerable discontent in the West. In November of 1788, at a convention in Kentucky, Wilkinson appeared with his pockets lined with Spanish gold and endeavored to place the community in such a light that Congress would act so rashly as to compel the Kentuckians to appeal to force. But this plan failed and, instead of passing a passionate resolution, the Kentuckians merely asked Virginia to grant them a separate government.† Yet even Sevier was opening negotiations with the Spanish authorities, and Robertson seems to have been so well disposed toward Spain that he called the district in which his settlers had established themselves the district of Mero (or Miro), after the governor of New Orleans.‡ Fortunately, both these dangers were averted. Virginia granted Kentucky the desired separation, and in 1790 Tennessee

ary 4, 1798, Adams, *Works*, vol. viii., p. 593. See also French E. Chadwick, *The Relations of the United States and Spain—Diplomacy*, p. 35.

* Winsor, *Westward Movement*, pp. 356, 363, 369. On Wilkinson's connection with this intrigue see also W. R. Shepherd, *Wilkinson and the Beginning of the Spanish Conspiracy*, in *American Historical Review*, vol. ix., p. 490; W. R. Shepherd (ed.), *Papers Bearing on James Wilkinson's Relations with Spain, 1788-1789*, in *American Historical Review*, vol. ix., p. 748.

† Winsor, *Westward Movement*, p. 369.

‡ Phelan, *History of Tennessee*, p. 165; Spears and Clark, *History of the Mississippi Valley*, p. 366.

* "The opinion seems to have taken such root upon the Mississippi, among the people in general, that scarcely any man arrives from that neighborhood who does not bring the report along with him."—John Adams to James Wilkinson, Febru-

was transferred to the National government. In 1792 Kentucky was admitted to the Union, but Tennessee remained under territorial government until her admission to statehood in 1796. The sentiment in favor of foreign annexation then began to disappear.*

Meanwhile on December 21, 1789, the Georgia Legislature had granted large tracts of land to three "Yazoo" companies, known as the South Carolina Company, the Virginia and Tennessee Companies, the grants stretching along the Mississippi from north to south.† Spain claimed part of this region, and Georgia had no clear title to it, for whatever right the Americans had was derived from England through the Treaty of Paris. But the Georgians did not accept that view, for they held that the region had been a part of their territory under the colonial government before the crown had set it up as part of West Florida, and hence that it was now the duty of the United States to return it to them. The schemes launched at this time collapsed, however, and the dispute did not come to a climax until a decade later.‡ Of the three companies, the Virginia Company was the only one which did not attempt to establish a settlement. The Tennessee

Company sent settlers into what is now northern Alabama, near the Muscle Shoals, but the settlement was broken up by the Cherokees.* The South Carolina Company, under Dr. James O'Fallon, acting for Wilkinson, entered into negotiations with the Spanish governor at New Orleans and soon announced that a colony of 10,000 men would be planted in the region allotted them under Spanish authority. O'Fallon assured the Kentuckians that the purpose was to found a state independent of Spain and which should join the Union; while Wilkinson declared to the Spanish governor that the whole affair was worked up in the interest of Spain. By this double dealing the projectors hoped to secure immunity from Spanish attack and aid from the Kentuckians, allowing the future to take care of itself.† Washington considered this an invasion of the public domain and a violation of the neutrality which we ought to observe toward Spain,‡ and on March 19, 1791, he issued a proclamation|| in which he said that it was his "earnest desire that those who have incautiously associated themselves with the said James O'Fallon [might] be warned of their dan-

* Haskins, *Yazoo Land Companies*, p. 413.

† Pickett, *Alabama*, pp. 408, 410, 443 (ed. 1900); Spears and Clark, *History of the Mississippi Valley*, pp. 370-371.

‡ See also Jefferson's opinion in Ford's ed. of *Jefferson's Writings*, vol. v., pp. 165-167.

|| Richardson, *Messages and Papers*, vol. i., pp. 101-102. See also the instructions to General St. Clair, in *American State Papers, Foreign Relations*, vol. i., p. 284.

* Winsor, *Westward Movement*, p. 369; Shaler, *Kentucky*, chap. viii.

† The act is in *American State Papers, Indian Affairs*, vol. i., p. 114.

‡ Haskins, *The Yazoo Land Companies*, in *Papers of the American Historical Association*, vol. v., p. 396.

ger," declaring "that all persons violating the treaties and act aforesaid [to regulate trade and intercourse with the Indian tribes] be prosecuted with the utmost rigor of the law." This put a quietus on that enterprise, and Georgia repealed the charter.*

Thus frustrated, the Spanish started an intrigue with the Indians. At this time the Creeks, to the number of more than 3,000 warriors, lived near the junction of the Tallapoosa and Coosa rivers, and their habitations stretched from that point to the Georgia line; in the mountains of Georgia and the Carolinas were the Cherokees, with 2,500 warriors; in the southern part of what is now Mississippi were the Choctaws, 4,000 strong; and around the headwaters of the Tombigbee lived the Chickasaws, a warlike tribe, though with only about 250 effective warriors.† In the furtherance of her plans, Spain sought to unite all these tribes, though for her present purpose the Creeks were the most important.‡ In carrying out her schemes Spain found a valuable agent in Alexander McGillivray, an influential half-breed, who had been a Tory during the Revolution and who, having lost some of his property, naturally hated the Americans. He was under a large retainer from a trading house in Florida, and, to be still surer of his influence, the govern-

ment appointed McGillivray commissioner at a good salary. Later he became involved in double dealing, taking American money as well as Spanish.* In 1784 the Spaniards concluded a treaty with the Creeks guaranteeing them protection if the Indians would not permit Americans to come among them without a Spanish permit, it being agreed also that the Creeks would endeavor to establish permanent peace with the other great tribes.†

The Indians soon beginning to attack the western settlements, the Westerners applied for protection to the National government. In order to avoid war with Spain, Washington resorted to diplomacy and sent commissioners to the Creeks.‡ Shortly after his return to New York in 1789, however, he learned that General Lincoln, Cyrus Griffin and David Humphreys, who had been deputed to treat with the Creeks, had failed in their negotiations. The commissioners had met McGillivray, with other chiefs and about 2,000 warriors, at Rock Landing, on the frontier of Georgia; but, probably because of his connection with the Spanish, McGillivray abruptly terminated the proceedings and broke off all further

* Winsor, *Westward Movement*, pp. 329, 346; Pickett, *Alabama*, pp. 344-346, 385-407 (ed. 1900).

† *American State Papers, Foreign Relations*, vol. i., pp. 278-279; Phelan, *Tennessee*, p. 167; Winsor, *Westward Movement*, p. 329.

‡ Their instructions are in *American State Papers, Indian Affairs*, vol. i., pp. 65-68

* Haskins, *Yazoo Land Companies*, pp. 398-412.

† Bassett, *Federalist System*, p. 74.

‡ Spears and Clark, *History of the Mississippi Valley*, p. 363.

negotiations.* Determined to make another effort, however, Washington sent Colonel Marinus Willett, ostensibly on private business, but with a letter of introduction to McGillivray, in which the latter was requested to come to New York for conference with the government officials, with the object of affecting a lasting peace. Willett performed his duty with much dexterity, and McGillivray, who was not loath to put himself in the way of anything of advantage to himself, came to New York with several other chiefs.† There fresh negotiations were commenced which terminated on August 7, 1790, in the establishment of a permanent peace.‡ After being duly confirmed by the Senate, the treaty was publicly ratified in Federal Hall in the presence of a large number of spectators (including many government officials) the day after Congress adjourned. The treaty was read aloud and interpreted clause by clause, the Indians signifying assent after their usual custom. Washington then signed the document and, in token of perpetual friendship, presented to McGillivray a string of beads and a paper of tobacco. The

ceremonies closed with the Creek song of peace.* The government allowed McGillivray \$100,000 for the goods which the Whigs had confiscated,† ceded back certain lands which Georgia had purchased from the Creeks, gave McGillivray full control of the Creek trade, and appointed him a brigadier-general in the army at a salary of \$1,200 per year. In return, the Indians agreed to maintain peace.‡ McGillivray pocketed the money, but hardly was he back in Alabama before the old outrages were renewed, continuing for some time.|| In his message of August 7, 1790, transmitting this treaty to Congress, Washington said:

"While I flatter myself that this treaty will be productive of present peace and prosperity to our Southern frontier, it is to be expected that it will also in its consequences be the means of firmly attaching the Creeks and the neighboring tribes to the interests of the United States.

"At the same time it is to be hoped that it will afford solid grounds of satisfaction to the State of Georgia, as it contains regular, full, and definite relinquishment on the part of the Creek nation of the Oconee land in the utmost extent in which it has been claimed by that State, and thus extinguishes the principal cause of those hostilities from which it has more than once experienced such severe calamities.

"But although the most valuable of the disputed land is included, yet there is a certain claim of Georgia, arising out of the treaty made by that State in November, 1785, of land to the eastward of a new temporary line from the forks of the Oconee and Oakmulgee, in a southwest direction to the St. Mary's river, which tract of land the Creeks in this city absolutely refused to yield.

"This land is reported to be generally barren,

* See the reports in *American State Papers, Indian Affairs*, vol. i., p. 68 *et seq.*; the letters from Humphreys in Sparks, *Correspondence of the Revolution*, vol. iv., pp. 272-283; White, *Historical Collections of Georgia*, pp. 158-160. See also Lodge, *George Washington*, vol. ii., pp. 87-88.

† For their reception in New York, see Lamb, *City of New York*, vol. ii., pp. 363-364.

‡ Brooks, *Life of Knox*, p. 223; White, pp. 160-161; Lodge, pp. 88-89. The treaty is in *American State Papers, Indian Affairs*, vol. i., pp. 81-82.

* Schouler, *United States*, vol. i., p. 172.

† Pickett, *Alabama*, p. 367 (ed. 1900).

‡ Winsor, *Western Movement*, p. 385.

|| Cf. Putnam's *Middle Tennessee*.

sunken, and unfit for cultivation, except in some instances on the margin of the rivers, on which by improvement rice might be cultivated, its chief value depending on the timber fit for the building of ships, with which it is represented as abounding.

"While it is thus circumstanced on the one hand, it is stated by the Creeks on the other to be of the highest importance to them as constituting some of their most valuable hunting grounds." *

In the meantime diplomatic negotiations had been progressing, though with only indifferent success. It will be remembered that as early as August 2, 1790, Jefferson, as Secretary of State, had written a letter to William Carmichael, American chargé at Madrid, instructing him to impress the Spanish ministry "with the necessity of an early and even an immediate settlement of this matter." Negotiations were not to be opened, however, unless, as a preliminary consideration, the complete freedom of navigation of the Mississippi were conceded. Carmichael was to demand also "a port where the sea and river vessels may meet and exchange loads and where those employed about them may be safe and unmolested." Jefferson urged the immediate consideration of the subject, saying: "It is impossible to answer for the forbearance of our western citizens. We endeavor to quiet them with an expectation of an attainment of their ends by peaceable means. But should they, in a moment of impatience, hazard others, there is no saying how

far we may be led; for neither themselves nor their rights will ever be abandoned by us." *

In December of 1791 the American government received intimations that the Spanish king was willing to make some arrangement respecting the Mississippi, if negotiations were conducted at Madrid;† as this suggestion appealed strongly to both Washington and Jefferson, the former, on January 11, 1792, nominated Carmichael and William Short "to be commissioners plenipotentiary for negotiating and concluding, with any person or persons who shall be duly authorized by his Catholic Majesty, a convention or treaty concerning the navigation of the river Mississippi by the citizens of the United States." ‡ Jefferson further recommended that the scope of the negotiations be widened so as to include the Florida boundary and the regulation of commerce.¶ On March 18, 1792, Jefferson transmitted to the President a paper in which he set forth the American arguments on behalf of the free navigation of the Mississippi,§ and in which

* *American State Papers, Foreign Relations*, vol. i., p. 247; Washington's ed. of Jefferson's Works, vol. iii., p. 173; Ford's ed. of Jefferson's Writings, vol. v., pp. 216-218; also the letter of August 11, pp. 225-231.

† *American State Papers*, vol. i., pp. 130-131.

‡ *Ibid.*, p. 131. See also Winsor, *Narrative and Critical History*, vol. vii., p. 476.

¶ *American State Papers, Foreign Relations*, vol. i., pp. 134, 252; Ford's ed. of Jefferson's Writings, vol. v., p. 456.

§ *American State Papers, Foreign Relations*, vol. i., pp. 252-257; Ford's ed. of Jefferson's Writings, vol. v., pp. 460-481. Portions of it are

* Richardson, *Messages and Papers*, vol. i., pp. 78-79.

he recommended that the American right "be acknowledged of navigating the Mississippi, in its whole breadth and length, from its source to the sea, as established by the treaty of 1763." The commissioners met at Madrid in February of 1793, but the new Spanish ministry was in no mood to consider such terms as the American commissioners had been authorized to offer. Gardoqui, the Spanish commissioner, thought it unlikely that the United States would attempt to enforce their claims. In a despatch to the Secretary of State, May 5, 1793, Carmichael and Short say:

"He [Gardoqui] still sees them [the States] divided among themselves and without efficient government. * * * He saw some individuals of the western country, or going to settle there, who treated their adhesion to the rest of the Union as visionary. From hence he has formed opinions, which he has not concealed from us, that the United States do not desire this navigation or the limits we ask, or at least do not desire it so generally as that they could be brought to make any general effort to obtain it, * * * He did not conceal from us that he thought it impossible the Northern, Middle, and Southern States should ever be brought to act in concert with respect to a foreign enemy out of their territory; and even if they should, that they had no means of acting efficaciously until they should have a marine—an event he regarded as never to take place, or at least to be so far off as not to be worthy of present consideration." *

As a result, no progress was made in the negotiations, and the commis-

sion was finally dissolved on the return of Carmichael to the United States.*

Meanwhile the Westerners were becoming restive under the commercial restraints imposed upon them by the Spanish in Louisiana. Every packet which sailed down the river with produce for Atlantic ports ran the risk of being confiscated as soon as it crossed the line 30° 31', or, if it escaped confiscation, had to run a gauntlet of innumerable annoyances, delays, and taxes. The vessels would be stopped at New Madrid and searched, and the captain compelled to purchase a pass to New Orleans. At the latter place the produce had to be landed on a levee and a duty of 15 per cent. *ad valorem* paid on it, besides, the goods could not be sold at the port, but was to be reloaded, for which another duty of 6 per cent. was charged.† Just at this time the French Revolution began and the Spanish governor at Louisiana was busy restraining the enthusiasm of the French element for "liberty, equality, and fraternity." Only by the greatest exertion was an uprising against the rule of the Bourbons frustrated. This presented to the people of Kentucky and Tennessee a favor-

quoted in Lyman, *Diplomacy of the United States*, vol. i., pp. 236-241, and a summary is given by Ogg, *Opening of the Mississippi*, p. 447. See also Schuyler, *American Diplomacy*, pp. 272-273; Jefferson's letter of March 7, 1792, in *State Papers*, vol. i., pp. 134-135.

* *American State Papers, Foreign Relations*, vol. i., pp. 262-263.

* See Washington's communication to Congress, April 15, 1794, *American State Papers*, vol. i., pp. 432-446; Schuyler, *American Diplomacy*, pp. 273-274; Trescot, *Diplomatic History of the Administrations of Washington and Adams*, pp. 226-233; Lyman, *Diplomacy of the United States*, vol. i., pp. 236-251; Spears and Clark, *History of the Mississippi Valley*, pp. 372-373.

† Ogg, *Opening of the Mississippi*, pp. 449-450.

able opportunity for a demonstration of force in defence of their rights on the Mississippi.

In 1793 Genêt landed in the United States and was enthusiastically received. He proceeded to fit out privateers to prey upon English commerce, and in other ways endeavored to violate Washington's proclamation of neutrality. Emissaries despatched by Genêt soon aroused the indignation of the people of the southwest at the neutral policy of the administration and at the failure of the government to relieve the distressed conditions of their commerce. Genêt's emissaries fanned the flames of indignation and easily persuaded the Westerners to wage war against the Spanish in Louisiana.* Genêt planned three expeditions: one against Louisiana from the Canadian frontier, another against East Florida from the Georgia border, and a third against New Orleans which was to proceed down the river from Kentucky. All were to be composed of men from the States, and it is said that more than 3,000 men had been enlisted for the Florida and Louisiana expeditions.† George Rogers Clark was commissioned major-general in the French service and "Commander-in-Chief of the French Revolutionary Legions on

the Mississippi." The avowed purpose was to capture Spanish posts on the Mississippi and to open the river to free trade.* Genêt proposed, also, to appoint André Michaux, the botanist then in America, a French Consul in Kentucky, but Jefferson refused to recognize such an officer.† He gave Michaux a letter, however, to the governor of Kentucky, and the botanist began to negotiate covertly in the interests of the French. Jefferson told Genêt that we were negotiating with Spain, giving him to understand that a little explosion in the West might aid the Americans by convincing Spain that it would be advantageous to conclude a treaty with the United States.‡ No attempt was made at concealment, and soon the Spanish authorities at New Orleans and the government at Philadelphia were cognizant of the warlike preparations. Governor Shelby, of Kentucky, was ordered to prevent the consummation of Clark's plans, but public sentiment in his State compelled him to evade the order.|| Governor St. Clair of the Northwest Territory, and Governor Blount, of Tennessee, forbade citizens

* F. J. Turner, *The Origin of Genêt's Projected Attack on Louisiana and the Floridas*, in *American Historical Review*, vol. iii., no. 4.

† Bassett, *Federalist System*, p. 79. See also the report of the committee of the South Carolina Legislature, in *American State Papers, Foreign Relations*, vol. i., pp. 309-311.

* Roosevelt, *Winning of the West*, vol. iv., pp. 174-179. See also *The Correspondence of George Rogers Clark and Genêt, 1793-1794*, in *Report of the American Historical Association*, for 1896, p. 930.

† Thwaites, *Brief History of Rocky Mountain Exploration*, pp. 73-79.

‡ Ford's ed. of *Jefferson's Writings*, vol. i., p. 235; vol. vi., pp. 158-161.

|| Gilmore, *Advance-Guard of Western Civilization*, pp. 317-319. See also *American State Papers, Foreign Relations*, vol. i., pp. 455-460.

to join the expedition, the latter saying that all who joined Clark's forces would "lay themselves liable to heavy Pains and Penalties, both pecuniary and corporal, in case they ever returned to their injured country,"* Furthermore, General Wayne erected a fort at the mouth of the Ohio to prevent the passage of Clark's flotilla, and in 1794 Genêt was recalled, whereupon the whole affair collapsed.† In February of 1794 Genêt's successor, Fauchet, arrived in the United States, bringing with him assurances that the French government condemned Genêt's conduct. He avowed also his determination to pursue a course

of action which would be acceptable to the President and in accord with the policy which the latter had resolved upon respecting the belligerent powers. For a while Fauchet acted up to the spirit of these professions.

The Westerners now again came substantially into their former relations with the Spaniards. To the Westerners one thing was settled, however: inasmuch as the government would not let them vindicate their rights, it was the undeniable obligation of the government itself to do the work. In October of 1793, at a meeting of the Democratic Society, in Lexington, Kentucky, this sentiment was avowed in unmistakable terms.* A committee was appointed to open correspondence with the inhabitants of the entire West, with the object of uniting them in asserting their rights and of preparing a remonstrance to Congress to be expressed "in the bold, decent and determined language, proper to be used by injured freemen when they address the servants of the people." They said that they were to be congratulated on having abstained so long from using the means they possessed to assert "a natural and unalienable right," but they declared that this forbearance could not long continue.† They demanded the use of the river as a natural right and

* Ogg, *Opening of the Mississippi*, pp. 452-453. See also A. H. Chappell, *Miscellanies of Georgia*, p. 43.

† See Thomas M. Green, *The Spanish Conspiracy: a Review of Early Spanish Movements in the Southwest*; N. P. Langford, *The Louisiana Purchase and Preceding Spanish Intrigues for Dismemberment of the Union*, in *Minnesota Historical Society Collections*, vol. ix., pp. 453-508; James A. Robertson, *Louisiana under the Rule of Spain, France and the United States, 1785-1807* (1911); Winsor, *The Westward Movement*, chap. xxiii.; W. H. English, *Conquest of the Northwest*, vol. ii., chap. xx.; Roosevelt, *Winning of the West*, vol. iv., pp. 179-184; Gayarré, *History of Louisiana*, vol. iii., chap. vi.; the collections and articles by F. J. Turner, as follows: *The Mangourit Correspondence in Respect to Genêt's Projected Attack upon the Floridas, 1793-1794*, in *Report of the American Historical Association*, for 1897, p. 569; *Correspondence of the French Ministers to the United States, 1791-1797*, in *Report of the American Historical Association* for 1903, vol. ii.; *Carondelet on the Defence of Louisiana, 1794*, in *American Historical Review*, vol. ii., p. 474; *Documents on the Relations of France to Louisiana*, in *ibid*, vol. iii., p. 490; *The Origin of Genêt's Projected Attack on Louisiana and the Floridas*, in *ibid*, vol. iii., p. 650; *France and the United States in the Mississippi Valley*, in *ibid*, vol. x., p. 249.

* Marshall, *History of Kentucky*, vol. ii., p. 92; Shaler, *Kentucky*, p. 128; Phelps, *Louisiana*, p. 169.

† McMaster, vol. ii., pp. 143-144. See also Roosevelt, *Winning of the West*, vol. iv., p. 197 *et seq*.

charged the government with being under the influence of a sectional policy which had resulted in withholding from the Westerners those rights essential to their prosperity. It was hinted even that, should they not be satisfied on this vital point, the Union was in danger of dismemberment.* The President's apprehensions that hostilities with Spain were imminent were strengthened by private communications. Intelligence had been received from American representatives in Europe that Spain had made some underhanded overtures to the English government concerning the United States. The exact nature of these propositions could not be ascertained, but it was understood that their tendency was far from friendly. Writing to the Secretary of War in June, therefore, Washington said that it was important that the strength of the Spanish forces in the Floridas be ascertained and that such other information be obtained as was necessary in view of a possible outbreak of hostilities with Spain.†

* See also Randolph's letter quoted in Chadwick, *Relations of the United States and Spain*, p. 36.

† Washington had always believed that the free navigation of the Mississippi was essential to the welfare of the United States and particularly of the Western States. Writing to Lafayette about a year after he became President, he said: "Gradually recovering from the distresses in which the war left us, patiently advancing in our task of civil government, unentangled in the crooked politics of Europe, wanting scarcely anything but the free navigation of the Mississippi, which we must have, and as certainly shall have, if we remain a nation," etc.—Lodge, *George Washington*, vol. ii., p. 162.

On December 16, 1793, a few days after the first session of the Third Congress had opened, Washington sent a confidential message to Congress respecting the critical situation of affairs with Spain.* Spain was inclined to ignore Washington's proposal that each nation should, in good faith, promote the peace of the other with the neighboring Indian tribes. Spain affected to suspect the agents of the United States of inciting the Indians to making incursions along the Florida borders.† The Spanish king, claiming to be the patron and protector of those Indians, assumed the right to mediate between them and the United States and to interfere in the settlement of their boundaries. After complaining of the aggressions of the American citizens on the Indians, it was declared "that the continuation of the peace, good harmony and perfect friendship of the two nations, was very problematical for the future, unless the United States should take more convenient measures, and of greater energy, than those adopted for a long time past."

Resolutions were passed in both Houses of Congress expressing the belief that Washington was urging the claims of the United States to the

* Richardson, *Messages and Papers*, vol. i., pp. 147-148. See also *American State Papers, Foreign Relations*, vol. i., p. 247 *et seq.*, for the papers submitted.

† Regarding this, see the letter of Carmichael and Short, and the Spanish officials, in *American State Papers, Foreign Relations*, vol. i., p. 435 *et seq.*

navigation of the Mississippi in the manner most likely to prove successful. The President was directed to communicate to the Kentuckians whatever part of the negotiations he deemed proper to disclose.* This did not satisfy the Kentuckians, however, and a number of the principal citizens of the State, assembled at Lexington, passed resolutions recommending that still further steps be taken to secure their just and inalienable rights. The tone of the appeal of the Westerners was so impatient and uncompromising that the administration decided to redouble its efforts for a diplomatic adjustment of the grievances. In November of 1794 Thomas Pinckney, of South Carolina, was nominated by Washington for the post of envoy extraordinary to the Spanish court † and was instructed to settle the Mississippi question on such terms as would conciliate the disaffected Westerners. In June of 1795, he arrived in Spain and immediately entered into negotiations with the prime minister, Don Manuel Godoy, the "Prince of Peace." ‡ On October 24, after sev-

eral weeks of fruitless discussion, Pinckney demanded his passports, hoping that this might bring the Spaniards to terms.* This brought matters to a focus, and, on October 27, 1795, the liberal treaty of San Lorenzo el Real was concluded.† It was confined principally to the two great subjects in dispute and was termed a treaty of friendship, limits and navigation. The line separating the United States from the Floridas was not changed, but continued the same as under the treaty of peace made with Great Britain, "beginning on the river Mississippi, at the northernmost part of the thirty-first degree of latitude north of the Equator, which from thence shall be drawn due east to the middle of the river Appalachicola or Catahouche; thence along the middle thereof to its junction with the Flint; thence straight to the head of St. Mary's

* *American State Papers, Foreign Relations*, vol. i., p. 454.

† *Ibid.*, vol. i., pp. 469, 533.

‡ On the negotiations, see Trescott, *The Diplomatic History of the Administrations of Washington and Adams*, chap. iv.; Lyman, *Diplomacy of the United States*, vol. i., chap. vii.; Schuyler, *American Diplomacy*, pp. 265-281; C. C. Pinckney, *Life of General Thomas Pinckney*; H. E. Chambers, *West Florida and its Relation to the Historical Cartography of the United States*, in *J. H. U. Studies*, series xvi., no. v.; George E. Rives, *Spain and the United States in 1795*, in *American Historical Review*, vol. iv., pp. 62-80;

B. A. Hinsdale, *The Establishing of the First Southern Boundary of the United States*, in *Annual Report of the American Historical Association*, 1893, pp. 331-366; Winsor, *Westward Movement*, chap. xxiv.; Pitkin, *Political and Civil History of the United States*, vol. ii., chap. xxiii. Pinckney's reports are in *American State Papers, Foreign Relations*, vol. i., pp. 533-549; *Annals of Congress*, 4th Congress, 1st session, App., pp. 2524-2560.

* Schuyler, *American Diplomacy*, p. 276. The correspondence will be found in *American State Papers, Foreign Relations*, vol. i., p. 536 *et seq.*

† For text, see Lyman, *Diplomacy of the United States*, vol. i., pp. 253-258; *American State Papers, Foreign Relations*, vol. i., pp. 546-549; *Treaties and Conventions between the United States and Other Powers* (rev. ed.), pp. 776-784; Snow, *Treaties and Topics in American Diplomacy*, pp. 106-109; *United States Statutes-at-Large*, vol. viii., p. 140; *Annals of Congress*, 4th Congress, 1st session, App., pp. 2561-2568.

River; and thence down the middle thereof to the Atlantic Ocean." The line was to be ascertained by a commissioner and surveyor appointed by each of the contracting parties, who were to meet at Natchez within six months from the time of ratification. The troops and garrisons of both parties were to be withdrawn within the same period.*

It was agreed that the navigation of the Mississippi from its source to the Ocean should be free only to the subjects and citizens of the two countries, unless his Catholic Majesty "should extend this privilege to the subjects of other powers by special convention;" that the Americans might enjoy the benefits of this navigation below the 31st parallel; that they were at liberty for a term of three years "to deposit their merchandises and effects in the port of New Orleans, and to export them without paying any other duty than a fair price for the hire of the stores; and his Majesty promises either to continue this permission if he finds during that time that it is not prejudicial to the interests of Spain, or if he should not agree to continue it there, he will assign to them an equivalent establishment on another part of the banks of the Mississippi." † Both parties were to use their utmost

endeavors to maintain peace and harmony among the Indian tribes on their borders; to restrain by force, if necessary, the Indians within their limits from hostile acts against the other; and neither party was to make any treaties with those who did not live within its respective limits. It was provided that free ships should make free goods, and that no citizen or subject of either party should be given a commission or letter of marque for arming any vessel to act as a privateer against the other, under penalty of being considered a pirate. The treaty was ratified by the United States almost without opposition.*

Thus, after a tedious negotiation of about 15 years, the boundaries between the Spanish possessions in America and the United States were settled and the Americans secured the right of navigating every part of the Mississippi. But Spain soon came to regret the liberality of this treaty, and on one pretext or another, Natchez and the other Spanish ports on the Mississippi, between 31° and 32° 30', were held by the Spanish troops for more than two years.† In May of 1797 the Spanish government protested against that clause in the Jay treaty which provided that the Mississippi should be open to England and the United States, on the ground that, ac-

* Chadwick, *Relations of the United States and Spain*, pp. 37-38.

† Phelps, *Louisiana*, pp. 172-173; Lodge, *George Washington*, vol. ii., pp. 164-165; Ogg, *Opening of the Mississippi*, pp. 456-457.

* Schouler, *United States*, vol. i., p. 323.

† See the correspondence regarding this in *American State Papers, Foreign Relations*, vol. ii., pp. 20, 78.

cording to her treaty of 1795 with the United States, the right of free navigation of the Mississippi belonged exclusively to Spanish subjects and American citizens. England was declared to have lost her right to navigate the Mississippi in 1793 and after that date

no nation save Spain could confer it upon another.* The question of British navigation of the Mississippi, however, was no longer a crying one, and the Spanish protest was allowed to lapse.†

CHAPTER VI.

1789-1793.

FOREIGN RELATIONS: NEUTRALITY AND THE GENET AFFAIR.

State of public affairs in 1793 — Effect of the French Revolution on public opinion in America — Washington's questions to the Cabinet regarding neutrality — Opinions of Hamilton, Knox, Jefferson and Randolph — Arrival of Genêt — Object of his mission — His reception in South Carolina — Washington's neutrality proclamation — Genêt's privateers — Protest of the British minister — Popular enthusiasm for the French cause — Genêt's correspondence with the government — The case of the *Polly* — Republican sentiment — Abuse of Washington — His indifference — The case of the *Little Democrat* — Genêt's letter to Jefferson and his reply — Papers of Pacificus and Helvidius — Turn in public opinion — Demand for Genêt's recall — Appointment of a new minister — Genêt's intrigue in Florida and Louisiana — Results of the Genêt affair.

When the United States began its existence as a nation it was bound to two great European nations, France and Great Britain — to the former by treaties of amity and commerce and of alliance, and to the latter by ties of blood, commerce and ideals. While it was not to our interest to be bound to any nation, still we were in a weak and defenceless state and in a difficult position regarding foreign relations. The American statesmen of the time seemed to deem it wisest to take a subordinate position among the world powers until such time as we should be strong enough to assert our absolute independence, politically and economically. But in 1793 an incident occurred which began to alienate us from France and nearly resulted in a

war. About the same time a dispute with England arose which was not settled until after the country was plunged into the throes of a second war.

The great events of the period in Europe could not fail to have a marked effect upon America and her interests. From its inception the French Revolution especially had been regarded with the deepest interest by Americans, who were disposed to rejoice at the prospect of the establishment of another republic founded on liberty, equality and the rights of man. But the actual course of events

* *American State Papers, Foreign Relations*, vol. ii., pp. 440, 469.

† Ogg, *Opening of the Mississippi*, pp. 458-459.

in France soon dispelled these hopes and expectations in the minds of many Americans. The monarchy was abolished; the king was executed; the Republic was proclaimed; and war was declared against England, Holland and Spain. The people of the United States were loath to believe that France was not destined to meet with the same success which happily the Americans attained in their struggle for liberty and justice. The overthrow of the monarchy seemed to have electrified the country. Marshall says:

"The war in which the several potentates of Europe were engaged against France, although, in almost every instance, commenced by that power, was pronounced to be a war for the extirpation of human liberty, and for the banishment of free government from the face of the earth. The preservation of the independence of the United States was supposed to depend on its issue, and the coalition against France was treated as a coalition against America also. A cordial wish that the war might terminate without diminishing the power of France, and so as to leave the people of that country free to choose their own form of government, was perhaps universal; but perfect unanimity of opinion did not prevail respecting the probable issue of their internal conflicts. By some few individuals, the practicability of governing under the republican form an immense military nation, whose institutions, habits, and morals are adapted to monarchy, and which was surrounded by armed neighbors, was deemed a problem which time alone could solve. The circumstances under which the abolition of royalty was declared, the massacres which preceded it, the scenes of turbulence and violence which were acted in every part of the nation, appeared to them to present an awful and doubtful state of things, respecting which no certain calculations could be made; and the idea that a republic was to be introduced and supported by force, was, to them, a paradox in politics. Under the influence of these appearances, the apprehension was entertained that the ancient monarchy would be restored, or a military despotism would

be established. By the many, these popular doubts were deemed unpardonable heresies; and the few to whom they were imputed, were pronounced hostile to liberty. A suspicion that the unsettled state of things in France had contributed to suspend the payment of the debt to that nation, had added to the asperity with which the resolutions on that subject were supported; and the French Revolution will be found to have had great influence on the strength of parties, and on the consequent political transactions of the United States." *

Therefore, when Washington was inaugurated for the second time on March 4, 1793, it was a time when the country stood most in need of his impartial honesty and firmness. At this time the French Revolution was at its height, and the threatened outbreak of war among the powers of Europe made it impossible for the President of the United States to remain indifferent. The majority of the people looked upon the Revolution with enthusiastic satisfaction, doubting not that France would secure thereby every blessing she desired.

The victory of Dumouriez over the Austrian and Prussian forces, announced early in January of 1793, was celebrated by civic feasts. In Boston, a roasted ox was borne in pageant, elevated on a car drawn by 16 horses, its gilded horns displaying the French and American flags and an inscription in front bearing the words: "A peace-offering to liberty and equality." Following this were four carts laden with loaves of bread and hogsheads of punch, which, after the procession,

* Marshall, *Life of Washington*, vol. ii., pp. 251-252.

were distributed to the multitude, the remnants being sent to the jail and almshouse. A banquet was held at Faneuil Hall at which the lieutenant-governor, Samuel Adams, presided. At a public dinner at Philadelphia, a pike was fixed at the head of the table bearing a liberty cap on which the American and French flags were entwined, the whole being surmounted by a dove and olive branch. "Caira" and "Yankee Doodle" became the most popular airs: the "Brutus crop" began to supersede the queue and tie-wig; and it was considered undemocratic to say "Mr.," the word "Citizen" being used instead.* There were many Americans who were willing to join France in a contest with Great Britain and to engage in privateering expeditions against the commerce of the belligerent powers, regardless of the consequences to themselves or to the country.† On the other hand, the merchants of British proclivities were greatly perplexed by the situation, for the United States and France were already in treaty alliance, while with England there was no treaty. Furthermore, our treaties with France committed us to a perpetual guarantee of French possessions in America, and provided to French privateers and prizes a shelter in American ports, though such shelter was explicitly refused to the enemies of France. Thus, France and

America were bound to an alliance inconsistent with the strict theory of neutrality, yet which gave France the right to expect some return for the great services she had rendered to America during the Revolution. Hamilton promptly began to riddle these treaties in their weak spots. They had been made with the King of France and his successors, and might not hold under the existing revolutionary government; the guarantee might not apply to an offensive but only to a defensive war; and though under the compact we were bound to exclude English *privateers*, English *ships of war* were not excluded. On such equivocal points the President did not wish to stand, but rather considered it best to concede the existence of the treaties.*

Washington followed the dictates of his judgment rather than the impulse of his feelings. Realizing that the effects of the war must soon be felt in the United States, he considered it his duty to ward off disaster if possible. He was satisfied that the best interests of the country demanded that the United States remain neutral, and was convinced that this course might be pursued without violating national faith or national honor.† But he

* Schouler, *United States*, vol. i., pp. 263-264.

† Sometime later, in reviewing his opinions regarding France, Washington wrote as follows: "My conduct in public and private life, as it relates to the important struggle in which the latter is engaged, has been uniform from the commencement of it and may be summed up in a few words: that I have always wished well to the French revolution; that I have always given it

* Schouler, *United States*, vol. i., pp. 260-261.

† On the rejoicings in this country, see McMaster, vol. ii., p. 89 *et seq.*

knew that neutrality must be impartial and that to preserve a state of strict neutrality and to avoid collisions with the contending powers would be difficult. Aware of the importance and delicacy of the situation, he asked the advice of his Cabinet as to the proper course of action. He submitted certain questions, particularly with respect to the existing relations with France.* These were submitted confidentially, but shortly afterward were made public. They were as follows:

QUESTION 1. Shall a proclamation issue for the purpose of preventing interferences of the citizens of the United States in the war between France and Great Britain, &c.? Shall it contain a declaration of neutrality or not? What shall it contain?

2. Shall a minister from the Republic of France be received?

3. If received, shall it be absolutely or with qualifications? and if with qualifications, of what kind?

4. Are the United States obliged by good faith to consider the treaties heretofore made with France as applying to the present situation of the parties? May they either renounce them or

as my decided opinion that no nation had a right to intermeddle in the internal concerns of another; that every one had a right to form and adopt whatever government they liked best to live under themselves; and that if this country could, consistently with its engagements, maintain a strict neutrality and thereby preserve peace, it was bound to do so by motives, policy, interest and every other consideration that ought to actuate a people situated as we are, already deeply in debt, and in a convalescent state from the struggle we have been engaged in ourselves." — Sparks' ed. of Washington's *Writings*, vol. xi., p. 164. See also Lodge, *George Washington*, vol. ii., pp. 138-139; Irving, *Life of Washington*, vol. v., pp. 274-275.

* Sparks, *Life of Washington*, p. 447; McMaster, vol. ii., p. 97; Lodge, *George Washington*, vol. ii., pp. 144-145. Cf. C. F. Adams, *Struggle for Neutrality in America*, p. 11; and Dawson's adverse review in *Historical Magazine* (February, 1871).

hold them suspended until the government of France shall be established?

5. If they have the right, is it expedient to do either? and which?

6. If they have an option, would it be a breach of neutrality to consider the treaties in operation?

7. If the treaties are to be considered as now in operation, is the guarantee in the treaty of alliance applicable to a defensive war only, or to a war, either offensive or defensive?

8. Does the war in which France is engaged appear to be offensive or defensive on her part? or of a mixed and equivocal character?

9. If of a mixed and equivocal character, does the guarantee in any event apply to such a war?

10. What is the effect of a guarantee, such as that to be found in the treaty of alliance between the United States and France?

11. Does any article in either of the treaties prevent ships of war, other than privateers of the powers opposed to France, from coming into the ports of the United States to act as convoys to their own merchantmen? or does it lay any other restraints upon them more than would apply to the ships of war of France?

12. Should the future regent of France send a minister to the United States, ought he to be received?

13. Is it necessary or advisable to call together the two Houses of Congress with a view to the present posture of European affairs? if it is, what should be the particular objects of such a call?

Washington requested that the Cabinet officials submit their answers in writing.* Regarding the opinions thus submitted, John Quincy Adams says:†

"On the 18th of April, 1793, President Washington submitted to his cabinet thirteen questions

* Washington's letter to the Cabinet and the questions will be found in Sparks' ed. of Washington's *Writings*, vol. x., pp. 337, 533-534; Hamilton's ed. of Hamilton's *Works*, vol. iv., p. 359. Jefferson's account of the Cabinet meeting at which the proclamation was discussed is in his *Works*, vol. ix., pp. 142-143 (ed. 1854). See also vol. iv., pp. 17-20, 29-31. For Jefferson's opinion on the French treaties, see Ford's ed. of Jefferson's *Writings*, vol. vi., pp. 219-231.

† *Life of Madison*, p. 53 et seq.

with regard to the measures to be taken by him in consequence of the revolution which had overthrown the French monarchy; of the new organization of a republic in that country; of the appointment of a minister from that republic to the United States, and of the war, declared by the National Convention of France against Great Britain. The first of these questions was, whether a proclamation should issue to prevent interferences of the citizens of the United States in the war? Whether the proclamation should or should not contain a declaration of neutrality? The second was whether a minister from the republic of France should be received. Upon these two questions the opinion of the cabinet was unanimous in the affirmative—that a proclamation of neutrality should issue and that the minister from the French republic should be received. But upon all the other questions, the opinions of the four heads of the departments were equally divided. They were indeed questions of difficulty and delicacy equal to their importance. No less than whether, after a revolution in France annihilating the government with which the treaties of alliance and of commerce had been contracted, the treaties themselves were to be considered binding as between the nations; and particularly whether the stipulation of guarantee to France of her possessions in the West Indies, was binding upon the United States to the extent of imposing upon them the obligation of taking side with France in the war. As the members of the cabinet disagreed in their opinions upon these questions, and as there was no immediate necessity for deciding them, the further consideration of them was postponed, and they were never afterwards resumed. While these discussions of the cabinet of Washington were held, the minister-plenipotentiary from the French republic arrived in this country. He had been appointed by the National Convention of France which had de-throned, and tried, and sentenced to death, and executed Louis the XVIth, abolished the monarchy, and proclaimed a republic one and indivisible, under the auspices of liberty, equality and fraternity, as thenceforth the government of France. By all the rest of Europe, they were then considered as revolted subjects in rebellion against their sovereign; and were not recognized as constituting an independent government.

“General Hamilton and General Knox were of opinion that the minister from France should be conditionally received, with the reservation of the question, whether the United States were still bound to fulfill the stipulations of the treaties. They inclined to the opinion that treaties them-

selves were annulled by the revolution of the government in France—an opinion to which the example of the revolutionary government had given plausibility by declaring some of the treaties made by the abolished monarchy, no longer binding upon the nation. Mr. Hamilton thought also, that France had no just claim to the fulfillment of the stipulation of guarantee, because that stipulation, and the whole treaty of alliance in which it was contained were professedly, and on the face of them, only *defensive*, while the war which the French Convention had declared against Great Britain, was on the part of France *offensive*, the first declaration having been issued by her—that the United States were at all events absolved from the obligation of the guarantee by their inability to perform it, and that under the Constitution of the United States the interpretation of treaties, and the obligations resulting from them, were within the competency of the executive department, at least concurrently with legislature. It does not appear that these opinions were debated or contested in the cabinet. By their unanimous advice the proclamation was issued, and Edmund Charles Genêt was received as minister-plenipotentiary of the French republic. Thus the executive administration did assume and exercise the power of recognizing a revolutionary foreign government as a legitimate sovereign with whom the ordinary diplomatic relations were to be entertained. But the proclamation contained no allusion whatever to the United States and France, nor of course to the article of guarantee or its obligations.”*

The French Republic had selected as its new minister, in the place of Jean Baptiste Ternant, Citizen Edmond Charles Edouard Genêt, a gentleman of fair talents, possessed of all the fire and temper of the Celtic race, and as Moore says, “gurgling with the fermentation of the new wine of the

* See also Lodge, *Alexander Hamilton*, p. 162 *et seq.*; Parton, *Life of Thomas Jefferson*, p. 465 *et seq.*; Hamilton's *Works*, vol. iv., p. 359 *et seq.*; Jefferson's *Writings*, vol. vi., p. 218; Ford's ed. of Jefferson's *Writings*, vol. i., p. 226 *et seq.*; Ford's ed. of Washington's *Writings*, vol. xii., p. 280 *et seq.*

Revolution.”* Indeed, in him was incarnated one phase of the Revolution: he fervently believed that the cause of France was the cause of the human race. He passionately loved his country, adored the cause of liberty, was ready to sacrifice his life for it, and could not see why all enemies of tyranny, all virtuous men, should not aid France in her struggle. To love liberty was to love France; to espouse the cause of France was to champion the cause of liberty — and hence of humanity.†

The real object of his mission, therefore, was to make this country subservient to the interests of France. Genêt's instructions throw a flood of light on his subsequent course of action. In case the American Government appeared “timid and wavering,” he was “to take such steps as will appear to him the exigencies may require to serve the cause of liberty and the freedom of the people, * * * in expectation that the American Government will finally determine to make common cause with us.” In other words, he was to take such steps as were necessary *in order* that the American government might resolve to make common cause with France; and, in furthering this object, he intended to enlist the people so strongly on the side of France that the government would be compelled to espouse her cause or be overthrown. Addi-

tional instructions were given him to make a new treaty with the United States upon a basis more “*liberal and more fraternal* than that of 1778,” and in such a way as to commit the United States to an alliance with the French against all Europe. But until such a treaty should be concluded, he was to “draw every advantage which the provisions of the subsisting treaty secured to the republic,” being “expressly enjoined to make himself thoroughly master of the sense of the treaty of 1778 and to be watchful in the execution of the articles which are favorable to the commerce and navigation of the French Republic.”*

It will be remembered that in 1778 the United States had concluded a treaty of alliance and a treaty of commerce with France. The “essential and direct end” of the treaty of alliance was to maintain the liberty, sovereignty and independence of the United States. The treaty was to be “eventual and defensive,” and it is evident that, with the exception of the eleventh article, the intention was to limit the treaty to the war then being waged for independence. But by the eleventh article the United States “guaranteed from the present time [1778] and forever the possessions of the crown of France in America.”†

* For extracts from these papers, see Pitkin, *Political and Civil History of the United States*, vol. ii., pp. 360-364. See also F. J. Turner, in *Report of the American Historical Association for 1903*, vol. ii., pp. 202-211.

† Lyman, *Diplomacy of the United States*, vol. i., p. 52.

* Moore, *American Diplomacy*, p. 39.

† Gordy, *Political History of the United States*, vol. i., p. 179.

The treaty of commerce was to be perpetual. By the nineteenth section it provided for the free entrance of prizes of either party into the ports of the other, but the cruisers of an enemy of either were not to be allowed to remain in the ports of the other. Other sections provided that privateers of an enemy of either should not be permitted to fit out or sell prizes in the ports of the other, and that each of the contracting parties might have consuls in the ports of the other.

Instead of landing at Philadelphia, the seat of government, where he was expected, Genêt went farther south, for he knew that France was more popular in the South and wished at the very start to give the government a vivid impression of the depths of the people's sympathy for France. He did not intend to confine his efforts in behalf of "liberty, fraternity and equality" to even the most liberal interpretation of the treaties of 1778. On April 8, 1793, he landed at Charleston,* which port, by its contiguity to the West Indies, was peculiarly adapted as a resort for privateers. The governor of the State and the people received him with unbounded enthusiasm,† well calculated to deceive him into a belief that the Americans were prepared to go to any lengths to aid France.‡ Two

weeks afterward, April 22, 1793, Washington issued the proclamation of neutrality as prepared by the Attorney-General.* In it he said:

"I have therefore thought fit by these presents to declare the disposition of the United States to observe the [friendly and impartial] conduct aforesaid toward those powers respectively [Austria, Prussia, Sardinia, Great Britain and the United Netherlands on the one part, and France on the other], and to exhort and warn citizens of the United States carefully to avoid all acts and proceedings whatsoever which in any manner tend to contravene such disposition.

"And I do hereby also make known that whosoever of the citizens of the United States shall render himself liable to punishment or forfeiture under the law of nations by committing, aiding, or abetting hostilities against any of the said powers, or by carrying to any of them those articles which are deemed contraband by the modern usage of nations, will not receive the protection of the United States against such punishment or forfeiture; and further, that I have given instructions to those officers to whom it belongs to cause prosecutions to be instituted against all persons who shall, within the cognizance of the courts of the United States, violate the law of nations with respect to the powers at war or any of them."†

of *American Historical Association* for 1903, vol. ii., pp. 211-213.

* Writing to Madison, May 19, Jefferson said: "I dare say you will have judged from the pusillanimity of the proclamation, from whose pen it came. A fear lest any affection should be discovered is distinguishable enough. This base fear will produce the very evil they wish to avoid. For our constituents, seeing that the government does not express their mind, perhaps rather leans the other way, are coming forward to express it themselves."—See Morse, *Thomas Jefferson*, p. 151; Ford's ed. of *Jefferson's Writings*, vol. vi., pp. 259-260. In this connection, see also Randolph's letters quoted in Conway, *Edmund Randolph*, pp. 151, 154, and also the discussion of the proclamation on p. 202 *et seq.*

† Richardson, *Messages and Papers*, vol. i., pp. 156-157; *American State Papers, Foreign Relations*, vol. i., p. 140; MacDonald, *Select Documents*, pp. 113-114; Ford's ed. of *Washington's Writings*, vol. xii., pp. 279-282; Ford's ed. of

* DeWitt, *Thomas Jefferson*, p. 218. Others (as Von Holst, *Constitutional and Political History*, vol. i., p. 112) give April 9.

† Schouler, *United States*, vol. i., p. 265.

‡ McMaster, vol. ii., p. 98; Parton, *Life of Thomas Jefferson*, pp. 469-470; Turner, in *Report*

Undoubtedly this was one of the most important measures of Washington's administration. "The murmurs and disgust which this measure occasioned evinced its necessity and wisdom." It laid the solid basis for that system which our country has steadily pursued in its intercourse with foreign nations and to which a large share of its prosperity may be ascribed.* It was essential to the independent existence and character of the United States, and it is greatly to Washington's credit that he dared to do what he considered right and just in the face of popular clamor. Hamilton said that—

"The declaration of the French nation 'that it will treat as enemies the people who, refusing or renouncing liberty and equality, are desirous of preserving their prince and privileged casts, or of entering into an accommodation with them'; and its promise 'not to lay down its arms until the sovereignty and liberty of the people on whose territories the French armies shall have entered shall be established, and not to consent to any arrangement with the prince and privileged classes so dispossessed' could not but be regarded as an outrage little short of a declaration of war against every government of Europe, and as a violent attack upon the freedom of opinion of all mankind."†

Nevertheless, the proclamation was at variance with the prejudices, the feelings and the passions of the mass of Americans;‡ and though Washing-

ton's character was widely revered and though he possessed a large share of the affections of the people, yet at this time not only the Republicans but many others began openly to assault his character and motives, pursuing these tactics with a perseverance and acrimony that can hardly be credited at the present time.*

Meanwhile Genêt had scarcely landed before he began his work, not like a foreign minister, but like a sovereign in his own empire. He had not yet presented his credentials or been recognized by the President, nor had he even taken over the books and papers of the minister he was to succeed. Nevertheless, being furnished with blank army and navy commissions and letters of marque, he bought and armed two swift-sailing vessels—renamed the *Citizen Genêt* and the *Sans Culottes*—and gave them commissions to commit depredations on the commerce of nations with whom the United States was at peace. These cruisers, manned partly by French and partly by American seamen, were to capture home-bound British merchantmen and bring their prizes into United States ports to be tried, condemned and sold by

Jefferson's *Writings*, vol. i., pp. 226-227 and vol. vi., pp. 315, 346. See also Foster, *Century of American Diplomacy*, p. 154; Moore, *American Diplomacy*, pp. 40-42.

* Sparks, *Life of Washington*, p. 448.

† Hamilton's ed. of *Hamilton's Works*, vol. iv., p. 388.

‡ Writing to Jefferson, June 19, 1793, Madison

says: "The proclamation was in truth a most unfortunate error. It wounds the national honor by seeming to disregard the stipulated duties to France. It wounds the popular feelings by a seeming indifference to the cause of liberty."—Rives, *Life and Times of James Madison*, vol. iii., pp. 334-335.

* Sparks, pp. 449-450. See also Pellew, *John Jay*, pp. 286-287.

the French consuls, who were authorized to act as courts of admiralty.*

The British minister, Mr. Hammond, now sent to Jefferson a long memorial complaining of the Frenchman's acts, basing his complaint chiefly on what had transpired at Charleston. He complained also because of an act of international hostility had been committed within the jurisdiction of the United States.† This was the capture of the British ship *The Grange*. Shortly after Genêt disembarked, the French frigate *L'Ambuscade* sailed for Philadelphia and on the way captured some richly laden British merchantmen. Some of these prizes were sent to Charleston, one was sent to New York, and one accompanied *L'Ambuscade* to Philadelphia. On April 25, 1793, the French ship, flying the British colors, entered the waters of Delaware Bay and there discovered another British ship, *The Grange*. Hauling down the British colors and running up the flag of France, *L'Ambuscade* attacked *The Grange* and forced her captain to strike. The British vessel was then sent to Philadelphia as a prize. Shortly afterward two other prizes appeared, which had been captured by the *Citi-*

zen Genêt.* In behalf of the British government, Hammond demanded the restitution of these ships, and Washington laid the matter before the Cabinet for discussion.†

Meanwhile Genêt had started from Charleston on his journey to Philadelphia, and everywhere along the route the citizens came forth by hundreds to meet and press upon him invitations to civic feasts, and other public functions. According to one description, Genêt was "quite active and seems always in a bustle, more like a busy man than a man of business."‡ At every town and hamlet through which he passed the bells were rung, the people shouted themselves hoarse, and Genêt was presented with an address and regaled with a civic banquet.¶ At Philadelphia every means had been taken to make his entry triumphal; and the opposition papers exultingly stated that he was met at Gray's Ferry "by crowds of people who flocked from every avenue of the city to meet the Republican ambassador of an allied nation."§ The next day addresses of congratulation were presented to him

* Parton, *Life of Thomas Jefferson*, p. 471.

† McMaster, vol. ii., pp. 99-100; Parton, *Life of Thomas Jefferson*, pp. 478-481; Hamilton, *History of the Republic*, vol. v., p. 253 *et seq.* Randolph's opinion concerning the seizure of *The Grange* is in *American State Papers, Foreign Relations*, vol. i., pp. 148-149.

‡ Hamilton's ed. of *Hamilton's Writings*, vol. v., p. 561.

¶ McMaster, vol. ii., p. 100; Gordy, *Political History of the United States*, vol. i., pp. 183-184.

§ See the *General Advertiser* for May 16, 1793.

* McMaster, vol. ii., pp. 98-99; F. J. Turner, in *Annual Report of the American Historical Association* for 1903, vol. ii., pp. 253, 848.

† Lodge, *George Washington*, vol. ii., p. 170. See also Jefferson's letters to the English and French ambassadors in Ford's ed. of *Jefferson's Writings*, vol. vi., pp. 236-237, 252-257; Turner, in *Annual Report of American Historical Association*, vol. ii., pp. 196-198.

by various societies and the citizens of Philadelphia, who waited upon him in a body. The answers to these addresses were well calculated to strengthen the idea of a complete fraternity between the peoples of the two nations.* In reply to the address presented by David Rittenhouse, spokesman of one committee, Genêt said:

"I cannot tell you, gentlemen, how penetrated I am by the language of the address to which I have listened, nor how deeply gratified my fellow-citizens will be in reading so noble an avowal of the principles of the Revolution of France, and on learning that so cordial an esteem for her citizens exists in a country for which they have shed their blood and disbursed their treasures, and to which they are allied by the dearest fraternal sentiments and the most important political interests. France is surrounded by difficulties; but her cause is meritorious: it is the cause of mankind and must prevail. With regard to you, citizens of the United States, I will declare openly and freely (for the ministers of republics should have no secrets, no intrigues), that, from the remote situation of America and other circumstances, France does not expect that you should become a party in the war; but, remembering that she has always combatted for your liberties (and if it were necessary, and she had the power, would cheerfully again enlist in your cause), we hope (and everything I hear and see assures me our hope will be realized) that her citizens will be treated as brothers in danger and distress. Under this impression, my feelings at this moment are inexpressible; and when I transmit your address to my fellow-citizens in France, they will consider this day as one of the happiest of their infant republic."†

At one of the civic feasts held in Genêt's honor, May 23, 1793, aristocrats and kings were denounced. Genêt sang the "Marseillaise," rapturously applauded, and when the red

cap of liberty, first placed on his own head, was passed around the table for each guest to don, the audience became frantic with joy. Later a banquet was held to commemorate the fall of the Bastille, at which Governor Mifflin and Genêt were guests, and it was stated that the head of a pig severed from the body was passed around and that into it each guest plunged his knife, as though to mangle the remains of the late king, while uttering some appropriate malediction.* Counter demonstrations in favor of the British were feeble in comparison, but at a dinner given at Philadelphia on the birthday of George III., the French party who wore the cap of liberty was admonished that there was another cap for licentiousness. British and French sailors engaged in street brawls, the crowd usually taking part with the latter. Men and women put on the French tri-colored cockade; Freneau's *Gazette* and Bache's *Advertiser* bitterly assailed the administration and the neutrality proclamation; and it is stated that 10,000 people paraded the streets of Philadelphia threatening to drag Washington out of his house and make him resign or else declare war with France.†

On the 18th, notwithstanding Genêt's audacious course in thus defying

* Schouler, *United States*, vol. i., p. 266. See also *Autobiography of Charles Biddle*, p. 253; Lossing, *Field-Book of the War of 1812*, p. 80.

† Schouler, p. 267.

* McMaster, vol. ii., pp. 101-102.

† Parton, *Life of Jefferson*, p. 472.

the proclamation of neutrality, Washington received him frankly and with the cordiality due to the representative of a great nation. It would not have been easy to find a stranger contrast even in that strange time, and it is unlikely that two men so totally different have ever faced each other as the representatives of two great nations. While undoubtedly Washington felt much like giving vent to one of his rare outbursts of passionate contempt, still his self-restraint was remarkable. His demeanor was a little colder than usual and his reserve a little more marked, but there was no trace of feeling. Nevertheless his manner chilled Genêt and fell upon him like a cold bath after the warmth of the addresses and plaudits which previously had been showered upon him.* As Genêt afterward complained, "not a revolutionary sentiment escaped his lips 'while all the towns from Charleston to Philadelphia had made the air resound with their most ardent wishes for the French Republic.' "†

Genêt now engaged in a correspondence with the government officials which is most remarkable. He first said that France needed money and requested that the United States advance the day of payment of the \$2,-

300,000 due France. In reciprocation, he would spend this money in the United States in purchasing goods to be sent to France or San Domingo. He said that France had already thrown open her ports and those of her colonies to Americans, and that he was now empowered to propose a new treaty.* Jefferson told him that no treaty could be made until the Senate met in the autumn, as that body alone possessed the treaty-making power.† Hamilton said that even were the Treasury full, which it was not, the United States would not follow such a course regarding the debt, and that if Genêt should make drafts on the Treasury, these would not be honored, as that would be aiding and abetting France in her struggle with nations at peace with the United States.‡ Genêt then said that to all those who would sell him provisions or supplies he would assign a part of the debt as payment for the goods, but to this Hamilton strenuously objected.§

* *American State Papers, Foreign Relations*, vol. i., pp. 142-146.

† See Jefferson's letter to Gouverneur Morris in Ford's ed. of *Jefferson's Writings*, vol. vi., p. 396.

‡ Lodge, *Alexander Hamilton*, pp. 169-170. On June 6, 1793, Jefferson advised Washington: "I think it very material myself to keep alive the friendly sentiments of that country as far as can be done without risking war, or double payment. If the installments falling due this year can be advanced, without incurring those dangers, I should be for doing it."—Ford's ed. of *Jefferson's Writings*, vol. vi., p. 288; Morse, *Thomas Jefferson*, p. 157.

§ McMaster, vol. ii., pp. 102-103; Schouler,

* Lodge, *George Washington*, vol. ii., pp. 149-150. See also Jefferson's estimate of Genêt's mission, quoted in Irving, *Life of Washington*, vol. v., pp. 172-173.

† Parton, *Life of Thomas Jefferson*, p. 478.

Meanwhile the whole matter was being thoroughly discussed by the Cabinet. Marshall says:

"On many of the points suggested by the conduct of M. Genêt, and by the memorials of the British minister, it would seem impossible, that a difference of opinion could exist among intelligent men, not under the dominion of blind infatuation. Accordingly, it was agreed, without a dissenting voice, in the cabinet, that the jurisdiction of every independent nation, within its own territory, being of a nature to exclude the exercise of any authority therein by a foreign power, the proceedings complained of, not being warranted by treaty, were usurpations of national sovereignty, and violations of neutral rights, a repetition of which it was the duty of the government to prevent.* The question of restitution, except as to *The Grange*, was more dubious. The secretary of state and the attorney-general were of

United States, vol. i., pp. 267-268; F. J. Turner, in *Report of the American Historical Association* for 1903, vol. ii., pp. 256, 282. See also the letters in *American State Papers, Foreign Relations*, vol. i., pp. 156-157.

* Writing to Genêt June 5, Jefferson said: "It is the right of every nation to prohibit acts of sovereignty from being exercised by any other within its limits; and the duty of a neutral nation to prohibit such as would injure one of the warring powers: that the granting military commissions within the United States by any other authority than their own is an infringement on their Sovereignty, and particularly so when granted to their own citizens, to lead them to commit acts contrary to the duties they owe their own country; that the departure of vessels thus illegally equipped, from the ports of the United States, will be but an acknowledgment of respect analogous to the breach of it, while it is necessary on their part, as an evidence of their faithful neutrality. On these considerations, Sir, the President thinks that the United States owe it to themselves, and to the nations in their friendship, to expect this act of reparation [the restoration of the prizes captured by the *Citizen Genêt*], on the part of vessels marked in their very equipment with offence to the laws of the land, of which the law of nations makes an integral part."—Ford's ed. of *Jefferson's Writings*, vol. vi., p. 283; *American State Papers, Foreign Relations*, vol. i., p. 150. See also Jefferson's letter to Genêt of June 17, in *ibid*, p. 307 *et seq.*

opinion, that vessels which had been captured on the high seas, and brought into the ports of the United States, by vessels fitted out and commissioned in their ports, ought not to be restored. The secretaries of the treasury and of war were of a different opinion. The president took time to deliberate on the point on which his cabinet was divided. Those principles on which they were united being considered as settled, the secretary of state was desired to communicate them to the ministers of France and Britain; and circular letters were addressed to the executives of the several states, requiring their co-operation, with force if necessary, in the execution of the rules which were established.*

"The citizen Genêt was much dissatisfied with these decisions. He thought them contrary to natural right, and subversive of the treaties by which the two nations were connected. Intoxicated with the sentiments expressed by a great portion of the people, and not appreciating the firm character of the executive, he seems to have expected, that the popularity of his nation would enable him to overthrow that department, or to render it subservient to his views. It is difficult otherwise to account for his persisting to disregard its decisions, and for passages with which his letters abound, such as the following:

'Every obstruction by the government of the United States to the arming of French vessels, must be an attempt on the rights of man, upon which repose the independence and laws of the United States,—a violation of the ties which unite the people of France and America, and even a manifest contradiction of the system of neutrality of the president; for, in fact, if our merchant vessels, or others, are not allowed to arm themselves, when the French alone are resisting the league of all the tyrants against the liberty of the people, they will be exposed to inevitable ruin in going out of the ports of the United States; which is certainly not the intention of the people of America. Their fraternal voice has resounded from every quarter around me, and their accents are not equivocal. They are pure as the hearts of those by whom they are expressed; and the more they have touched my sensibility, the more they must interest in the happiness of America the nation I represent; the more I wish, sir, that the Federal Government should observe, as far as in their power, the public engagements contracted by both nations; and that, by this generous and prudent conduct, they will give at least to the world, the example of a true neutrality, which does not consist in the cowardly abandonment of their friends in the moment when danger menaces them, but in adhering strictly, if they can do no better, to the obligations they have contracted with

* See also Hamilton, *History of the Republic*, vol. v., pp. 253-258.

them. It is by such proceeding that they will render themselves respectable to all the powers; that they will preserve their friends, and deserve to augment their numbers.*

"A few days previous to the reception of the letter from which the foregoing extract is taken, two citizens of the United States, who had been engaged by M. Genêt, in Charleston, to cruise in the service of France, were arrested by the civil magistrate, in pursuance of a determination of the executive to prosecute persons having thus offended against the laws. M. Genêt demanded their release in the following extraordinary terms:

'I have this moment [June 1, 1793] been informed, that two officers in the service of the republic of France, citizen Gideon Henfield and John Singletary,† have been arrested on board the privateer of the French republic, the *Citizen Genet*, and conducted to prison. The crime laid to their charge—the crime which my mind cannot conceive, and which my pen almost refuses to state—is the serving of France, and defending, with her children, the common glorious cause of liberty. Being ignorant of any positive law or treaty which deprives Americans of this privilege, and authorizes officers of police arbitrarily to take mariners, in the service of France, from on board their vessels, I call upon your intervention, sir, and that of the president of the United States, in order to obtain the immediate release of the above-mentioned officers, who have acquired, by the sentiments animating them and by the act of their engagement, anterior to every act to the contrary, the right of French citizens, if they have lost that of American citizens.'‡

Under the influence of passion, rendered still more furious by the firm attitude of the President, Genêt was ready for any step which might suggest itself. Urged by the party press, he constantly attended public banquets, at which red caps of liberty appeared and at which toasts were given as flattering to the French republic as vituperative of the American government.|| These festivities

somewhat obscured another incident which had taken place. Less than a week after Governor Clinton of New York received the Cabinet resolutions regarding privateers, it became necessary for him to act according to the instructions contained therein. A sloop, formerly named the *Polly*, had been purchased, renamed *The Republican*, and was being fitted out at New York as a privateer. As soon as he became aware of these facts, Clinton sent a detachment of troops to seize her, whereupon Genêt protested to Jefferson, but without avail. The government proceeded to stop all privateers of whom it became cognizant, and it was high time, for the seaports swarmed with them. Among them were the *Roland*, fitted out at Boston; the *Carmagnole* on Delaware Bay, the *Cincinnatus* and the *Vanqueur de la Bastille* at Charleston, the *Anti-George*, at Savannah, and others.*

The minds of the people were now wrought up to such a pitch in favor of France that it was almost impossible to secure a jury which would convict privateers on the most direct evidence. The government was denounced as favoring the late enemy of American liberty, and even the name of Washington was insulted.†

* *American State Papers, Foreign Relations*, vol. i., p. 151.

† Regarding this case, see Conway, *Edmund Randolph*, pp. 182–196.

‡ Marshall, *Life of Washington*, vol. ii., pp. 262–267. See also *American State Papers, Foreign Relations*, vol. i., p. 151.

|| McMaster, vol. ii., pp. 104–106.

* McMaster, vol. ii., pp. 106–108. For the Cabinet opinion on the *Polly* and the *Catherine*, see Ford's ed. of *Jefferson's Writings*, vol. vi., pp. 295–296; for the instructions to the United States Attorney for New York, pp. 296–297.

† Writing to his wife December 19, 1793, John Adams said: "If the President has made any

Nowhere was the feeling stronger than in Pennsylvania, which was the stronghold of republicanism. The officials and most of the populace were strong supporters of Genêt, and this very public was now put to use for political purposes by a few shrewd politicians, among whom were David Rittenhouse, Peter S. DuPonceau, the most widely known Frenchman in Philadelphia, the State Attorney-General, Jonathan Sergeant, and the State Secretary of State, Alexander J. Dallas. They formed what they called the Democratic Society, modeled after the Jacobin clubs of Paris, and in their constitution forbade the use of the word "sir" and "humble servant." The secret object of the society was to gain control over Pennsylvania politics and re-elect Governor Mifflin, but its avowed object was to ward off the danger of foreign kings and potentates by destroying the monarchical tendencies in America and reverting to republicanism. Their circulars stated that there was too much luxury, wealth and arrogance of power in this country and that liberty and equality

were things of the past. The members of this society pushed their propaganda so vigorously that during the summer numerous other democratic societies sprang up throughout the country.*

The personal character of Washington now came in for a round of abuse, chiefly at the hands of Philip Freneau and Benjamin Franklin

* Regarding these societies, Washington wrote:

"That these societies were instituted by the artful and designing members (many of their body I have no doubt mean well, but know little of the real plan) primarily to sow among the people the seeds of jealousy and distrust of the government, by destroying all confidence in the administration of it, and that these doctrines have been budding and blooming ever since, is not new to any one, who is acquainted with the character of their leaders, and has been attentive to their manœuvres.

"Can any thing be more absurd, more arrogant, or more pernicious to the peace of society, than for self-created bodies, forming themselves into permanent censors, and under the shade of night in a conclave resolving that acts of Congress, which have undergone the most deliberate and solemn discussion by the representatives of the people, chosen for the express purpose and bringing with them from the different parts of the Union the sense of their constituents, endeavoring, as far as the nature of the thing will admit, to form *their will* into laws for the government of the whole; I say, under these circumstances, for a self-created *permanent* body (for no one denies the right of the people to meet occasionally to petition for, or remonstrate against, any act of the legislature) to declare that *this act* is unconstitutional, and *that act* is pregnant with mischiefs, and that all, who vote contrary to their dogmas, are actuated by selfish motives or under foreign influence, nay, are traitors to their country? Is such a stretch of arrogant presumption to be reconciled with laudable motives, especially when we see the same set of men endeavoring to destroy all confidence in the administration, by arraigning all its acts, without knowing on what ground or with what information it proceeds?"—Sparks, *Life of Washington*, pp. 452-453.

mistake at all, it is by too much partiality for the French Republicans and not in preserving a neutrality between the parties in France, as well as among the belligerent powers. But although he stands at present as high in the admiration and confidence of the people as he ever did, I expect he will find many bitter and desperate enemies arise in consequence of his just judgment against Genêt."—John Adams, *Works*, vol. i., p. 460. Again he says: "The anti-federalists and frenchified zealots have nothing now to do, that I can conceive of, but to ruin his character, destroy his peace, and injure his health."—P. 462.

Bache. They said that Washington was posing as an honest man while seeking a crown and debauching the country. In the *National Gazette*, Freneau said:

"The minister of France, I hope, will act with firmness and with spirit. The people are his friends, or the friends of France, and he will have nothing to apprehend; for, as yet, the people are sovereign of the United States. Too much complacency is an injury done his cause; for, as every advantage is already taken of France (not by the people) further condescension may lead to further abuse. If one of the leading features of our government is *pusillanimity* when the British lion shows his teeth, let France and her minister act as becomes the dignity and justice of her cause, and the honor and faith of nations."*

The *General Advertiser* said:

"It is no longer possible to doubt that the intention of the executive of the United States is to look upon the treaty of amity and commerce which exists between France and America as a nullity; and that they are prepared to join the league of kings against France."†

For a time these attacks did not cause Washington any distress, for

* Jay, *Life of Jay*, vol. i., p. 303; Lossing, *Field-Book of the War of 1812*, p. 82, note.

† Writing to Jefferson, June 19, 1793, Madison said: "I regret extremely the position into which the President has been thrown. The unpopular cause of Angleomany is openly laying claim to him. His enemies, masking themselves under the popular cause of France, are playing off the most tremendous batteries on him. * * * It is mortifying to the real friends of the President that his fame and his influence should have anything to apprehend from the success of liberty in another country, since he owes his pre-eminence to the success of it in his own. If France triumphs, the ill-fated proclamation will be a mill-stone, which would sink any other character and will force a struggle even on his."—Madison's *Works* (Congress ed.), vol. i., p. 584. Yet Washington was never undecided as to his political principles and was quite capable of taking care of his own reputation. Madison's tears were quite uncalled for. See Gay, *Life of Madison*, p. 213.

he said: "I have consolation within that no earthly effort can deprive me of, and that is, that neither ambitions nor interested motives have influenced my conduct. The arrows of malevolence, therefore, however barbed and well-pointed, never can reach the most vulnerable part of me; though, whilst I am up as a mark, they will be continually aimed."* But as the slanders grew more outrageous they began to irritate Washington and the simple illusion to them would provoke a show of rage, frequently ending in an expression of repentance that he had not resigned his office long ago.† One of these outbursts occurred at a Cabinet meeting and is described by Jefferson in *The Anas* as follows:

"The president manifestly inclined to the appeal of the people. Knox, in a foolish incoherent sort of a speech, introduced the Pasquinade lately printed, called the funeral of George W—n, and James W—n, King & judge, &c., where the President was placed on a guillotine. The President was much inflamed, got into one of those passions when he cannot command himself, ran on much on the personal abuse which had been bestowed on him, defied any man on earth to produce one single act of his since he had been in the gov'm't, which was not done on the purest motives, that he had never repented but once the having slipped the moment of resigning his office, & that was every moment since, that, *by god*, he had rather be in his grave than in his present situation. That he had rather be on his farm than to be made *emperor of the world*‡ and yet that they

* In a letter to Henry Lee, June 21, 1793; Spark's ed. of *Washington's Writings*, vol. x., p. 359; Irving, *Life of Washington*, vol. v., pp. 185-186.

† See Ford's ed. of *Jefferson's Writings*, vol. i., p. 256.

‡ Washington seems to have come to the decision some time previously that he ought to

were charging him with wanting to be a king. That that *rascal Freneau* sent him 3 of his papers every day, as if he thought he would become the distributor of his papers, that he could see in this nothing but an impudent design to insult him. He ended in this high tone." *

Genêt, however, was carrying matters to an extreme,† and his contempt for the laws and the authorities soon caused a reaction to set in. His conduct brought down upon him a severe reprimand from his own government in a letter dated July 30, 1793, from

retire, for in a conversation reported by Madison he said that "his inclination would lead him rather to go to his farm, take his spade in his hand, and work for his bread, than remain in his present situation [or accept another term as President]; that it was evident, moreover, that a spirit of party in the Government was becoming a fresh source of difficulty, and he was afraid was dividing some (alluding to the Secretary of State and the Secretary of the Treasury) more particularly connected with him in the administration; that there were discontents among the people which were also shewing themselves more and more, and that although the various attacks against public men and measures had not in general been pointed at him, yet, in some instances, it had been visible that he was the indirect object, and it was probable the evidence would grow stronger and stronger that his return to private life was consistent with every public consideration, and, consequently, that he was justified in giving way to his inclination for it."—*Madison's Works* (Congress ed.), vol. i., p. 557.

* Ford's ed. of *Jefferson's Writings*, vol. i., p. 254; Irving, *Life of Washington*, vol. v., pp. 187-188; Parton, *Life of Thomas Jefferson*, p. 489.

† As Jefferson said, Genêt had developed "a character and conduct so unexpected and so extraordinary, as to place us in a most distressing dilemma, between our regard for his nation, which is constant and sincere, and a regard for our laws, the authority of which must be maintained; for the peace of our country, which the executive magistrate is charged to preserve; for its honor, offended in the person of that magistrate; and for its character, grossly traduced in the conversations and letters of this gentleman." See also Gay, *Life of Madison*, p. 209 *et seq.*

the French minister of foreign affairs.* He lost many friends also by breaking his own word, particularly in the case of *Le Petit Démocrate*. This ship was originally an English brig—the *Little Sarah*—which had been captured by *L'Ambuscade*, refitted and renamed the *Little Democrat*. While she was being armed, the authorities of Pennsylvania were warned that she was being turned into a privateer, and Governor Thomas Mifflin sent Secretary of State A. J. Dallas to warn Genêt that she must not leave port.† Genêt refused to detain her and threatened to repel force with force. After guards had been placed around her, the case was laid before Jefferson (Washington being away at Mt. Vernon).‡ Jefferson received, or supposed he received, a promise from Genêt that the vessel would not sail,|| and therefore withdrew the guards, upon which the *Little Democrat* slipped her anchorage, dropped

* F. J. Turner, in *Report of American Historical Association* for 1903, vol. ii., p. 228. See also Gardner W. Allen, *Our Naval War with France*, p. 8 (1909).

† Ford's ed. of *Jefferson's Writings*, vol. i., p. 237; Irving, *Life of Washington*, vol. v., pp. 179-180; Parton, *Life of Thomas Jefferson*, pp. 483-484; Schouler, *United States*, vol. i., pp. 269-270; Lossing, *Field-Book of the War of 1812*, p. 82.

‡ Lodge, *George Washington*, vol. ii., p. 152. For the Cabinet opinions on the *Little Sarah*, see Ford's ed. of *Jefferson's Writings*, vol. vi., pp. 339-344.

|| See the conversation as given by Irving, *Life of Washington*, vol. v., pp. 180-183; Parton, *Life of Thomas Jefferson*, pp. 481-485; Ford's ed. of *Jefferson's Writings*, vol. i., p. 237 *et seq.*

down to Chester and set sail upon her cruise.*

While the best course to pursue regarding Genêt and his proceedings was being debated in the Cabinet, Genêt complained on a subject of considerable importance. The treaty of commerce with France stated that free bottoms make free goods, but no stipulation on the subject had been made with England. It followed, therefore, that the belligerent rights of Great Britain should be decided by the law of nations. The British construed this law as giving security to the goods of a friend in the bottoms of an enemy, and the right to subject to capture the goods of an enemy in the bottoms of a friend. Following this construction of the law, some British cruisers took French property out of American vessels, and the British courts condemned this property as lawful prize.† Genêt remonstrated against the acquiescence of the United States in this interpretation of the law of nations, and on July 9, in the midst of the contest respecting the *Little Democrat*, wrote a letter demanding an immediate and positive answer as to what measure the President had taken or would take for compelling belligerent powers to respect

the American flag.* Toward the latter end of the month Genêt addressed the Secretary of State on the same subject, and, after complaining of the seizure of French property in American vessels, said:

"Your political rights are counted for nothing; * * * in vain does the desire of preserving peace lead to sacrifice the interest of France to that of the moment; in vain does the thirst of riches preponderate over honor in the political balance of America; all this management, all this condescension, all this humility, end in nothing; our enemies laugh at it; and the French, too confident, are punished for having believed that the American nation had a flag, that they had some respect for their laws, some conviction of their strength, and entertained some sentiment of their dignity. * * * If our fellow-citizens have been deceived, if you are not in a condition to maintain the sovereignty of your people, speak; we have guaranteed it when slaves, we shall be able to render it formidable, having become free-men." †

In reply to Genêt's letter of July 9, Jefferson wrote:

"I believe it cannot be doubted, but that by the general law of nations, the goods of a friend found in the vessel of an enemy are free, and the goods of an enemy found in the vessel of a friend are lawful prize. Upon this principle, I presume, British armed vessels have taken the property of French citizens found in our vessels, in the case above mentioned, and I confess I should be at a loss on what principle to reclaim it." ‡

Genêt disputed this view of the matter and threatened an appeal to the people. In the correspondence which followed, Jefferson, always perspicacious in his deductions from

* On the subject of *Le Petit Démocrate*, see Marshall, *Life of Washington*, vol. ii., pp. 270-273; Randall, *Life of Jefferson*, vol. ii., pp. 157-172. Consult also note in Tucker, *Life of Jefferson*, vol. i., p. 432; Lodge, *George Washington*, vol. ii., pp. 152-153; Bassett, *Federalist System*, pp. 93-95; Gordy, *Political History of the United States*, vol. i., pp. 190-191.

† Allen, *Our Naval War with France*, p. 9.

* *American State Papers, Foreign Relations*, vol. i., p. 164.

† *Ibid.*, vol. i., p. 165.

‡ *Ibid.*, vol. i., pp. 166-167; Ford's ed. of *Jefferson's Writings*, vol. vi., p. 356. See also his letter to Gouverneur Morris in *ibid.*, pp. 371-393.

fundamental principles, expounded in a remarkably clear manner the nature and scope of neutral duty. He said it was the "right of every nation to prohibit acts of sovereignty from being exercised by any other within its limits" and that it was "the duty of a neutral nation to prohibit such as would injure one of the warring powers;" hence "no succor should be given to either, unless stipulated by treaty, in men, arms or anything else directly serving for war." The raising of troops and the granting of military commissions were sovereign rights which pertained to the nation itself, and could not be exercised within its limit by a foreign power without its consent. Thus, if the United States had "a right to refuse permission to arm vessels and raise men" in territory under its jurisdiction, it was "bound by the laws of neutrality to exercise that right and to prohibit such armaments and enlistments."* On September 7 Jefferson issued a circular letter to the consul in which he states that, having learned that they were exercising admiralty jurisdiction, trying prizes, and enlisting American citizens for the French navy:

"I have it in charge, from the President of the United States, to give notice to all consuls and vice-consuls of France in the United States, as I hereby do to you, that if any of them shall commit any of the acts above mentioned, or assume any jurisdiction not expressly given by the convention between France and the United States,

the exequatur of the consul so transgressing will be immediately revoked, and his person be submitted to such prosecutions and punishments as the laws may prescribe for the case."*

The reaction was materially aided by some articles appearing in the Federal newspapers over the name of *Pacificus*. These were in defence of Washington's proclamation, which had so vigorously been attacked, and were aimed principally at Jefferson and Madison. The facts, as given by John Quincy Adams,† are as follows:

"Mr. Jefferson had advised the proclamation: but he had not considered it as deciding the question of the guaranty.‡ The government of the French republic had not claimed and never did claim the performance of the guaranty. But so strenuously was the right of the President to issue the proclamation contested, that Mr. Hamilton, the first adviser of the measure, deemed it necessary to defend it inofficially before the public. This he did in seven successive papers under the signature of *Pacificus*. But in defending the Proclamation, he appears to consider it as necessarily involving the decision against the obligation of the guaranty, and maintain the right of the Executive so to decide. Mr. Madison, perhaps influenced in some degree by the opinions and feeling of his long cherished and venerated friend, Jefferson,|| was already harboring suspicions of a formal design on the part of Hamilton, and of the federal party generally, to convert the government of the United States into a monarchy like that of Great Britain, and thought he perceived in these papers of *Pacificus* the assertion

* *American State Papers, Foreign Relations*, vol. i., p. 175.

† *Lives of Madison and Monroe*, p. 57 et seq.

‡ The guarantee to France of her West India possessions in the treaty of alliance.

|| Jefferson winced deeply at the thrusts of Hamilton and begged Madison to reply, saying, "For God's sake, my dear sir, take up your pen, select the most striking heresies, and cut him to pieces in the face of the public."—Ford's ed. of *Jefferson's Writings*, vol. vi., p. 338. See also Tucker, *Life of Jefferson*, vol. i., p. 500.

* Moore, *American Diplomacy*, p. 45.

of a prerogative in the president of the United States to engage the nation in war.* He therefore entered the lists against Mr. Hamilton in the public journals, and in five papers under the signature of Helvidius, scrutinized the doctrines of Pacificus with an acuteness of intellect never perhaps surpassed, and with a severity scarcely congenial to his natural disposition, and never on any other occasion indulged. Mr. Hamilton did not reply; nor in any of his papers did he notice the animadversions of Helvidius. But all the Presidents of the United States have from that time exercised the right of yielding and withholding the recognition of governments consequent upon revolutions, though the example of issuing a Proclamation of neutrality has never been repeated. * * * The papers of Pacificus and Helvidius are among the most ingenious and profound Commentaries on that most important part of the Constitution, the distribution of the Legislative and Executive powers incident to war, and when considered as supplementary to the joint labors of Hamilton and Madison in the *Federalist*, they possess a deep and monitory interest to the American philosophical Statesman. The *Federalist* exhibits the joint efforts of two powerful minds in promoting one great common object, the adoption of the Constitution of the United States. The papers of Pacificus and Helvidius present the same minds, in collision with each other, exerting all their energies in conflict upon the construction of the same instrument which they had so arduously labored to establish; and it is remarkable, that upon the points in the

papers of Pacificus most keenly contested by his adversary the most forcible of his arguments are pointed with quotations from the papers of the *Federalist* written by Mr. Hamilton." *

These newspaper polemics greatly aroused the people, the excitement being increased by an event which occurred at New York. The French ship *L'Ambuscade* lay in the harbor, and toward the close of July another French ship was reported off Sandy Hook. The French captain sent a lieutenant to greet her, but the latter soon ascertained that she was a British frigate—the *Boston*. The British captain challenged the French to combat, and on the morning of August 1 the battle took place off Long Branch. The British ship was badly beaten and fled, and *L'Ambuscade* was given a rousing reception upon her return to port.†

But this was the last cause of exultation on the part of Genêt's adherents. About the middle of May the citizens of Philadelphia sent an address to Washington thanking him for the neutrality proclamation and promising to adhere strictly to its terms. On July 22 the citizens of Boston did likewise, and on August 8, the day on which Genêt was received at New York with every mark of attachment, the citizens of that city declared for neutrality. These addresses were fol-

* Regarding this, Madison says: "I am extremely afraid that the President may not be sufficiently aware of the snares that may be laid for his good intentions by men whose politics at bottom are very different from his own. An assumption of prerogatives not clearly found in the Constitution, and having the appearance of being copied from a monarchical model, will beget animadversion equally mortifying to him and disadvantageous to the Government. Whilst animadversions of this sort can be plausibly ascribed to the spirit of party, the force of them may not be felt. But all his real friends will be anxious that his public conduct may bear the strictest scrutiny of future times, as well as of the present day; and all such friends of the Constitution would be doubly pained at infractions of it under auspices that may consecrate the evil till it be incurable."—Madison to Jefferson, June 13, 1793, Madison's *Works*, (Congress ed.), vol. i., p. 582.

* See also Hamilton's *Works*, vol. vii., pp. 76-117 (ed. 1851); Gay, *Life of Madison*, p. 207. The Helvidius papers will be found in Madison's *Works* (Congress ed.), vol. i., pp. 611-654.

† Lamb, *City of New York*, vol. ii., p. 393; McMaster, vol. ii., pp. 121-124.

lowed by others from Beverly, Salem, Hartford, Princeton, Newark, Baltimore, Richmond, Alexandria and other cities.* One of the causes of this reversion of feeling was the unwarranted manner in which affronts were offered the President, the government and the citizens. A sample of such conduct was the action of the French frigate *La Concord* at Boston. Soon after she arrived a huge white placard was placed at her masthead containing the names of several of the most prominent men of the town who were accused of being aristocrats, unfriendly to the French Revolution, and averse to having Americans serve in French privateers. This was too much for Boston, and though the French Society denied responsibility and the captain declared it had been done while he was ashore, the anger of the people was not appeased. On the contrary, it was aroused to a still higher pitch by the actions of the same ship. A British ship had been captured by a French privateer and sent to Boston for condemnation, but its owners replevined the ship and a United States marshal was sent to serve the writ. The French vice-consul, however, told the prize-master to retain possession of the ship, which he did for three days, when it was drawn to the wharf by the marshal. On October 3, 1793, Washington issued a proclamation revoking the exequatur

of the vice-consul.* This provoked a storm of protest, particularly from Genêt, who wrote an insolent note to Jefferson saying that he did not recognize the proclamation as valid, that Washington had overstepped his authority, and demanding that the vice-consul's conduct should be investigated by the sovereign State of Massachusetts.†

Many other instances were now brought to light wherein the French had defied the government and set its laws at naught, and to ruin his cause still more completely Genêt attacked Washington most intemperately, threatening to appeal from the President to the people. Washington scarcely noticed this further than to ask, "Is the minister of the French Republic to set acts of this government at defiance and then threaten the executive with an appeal to the people?"‡ The statement that this attack on Washington had been made had appeared in print over the signatures of John Jay and Rufus King; and early in August Genêt wrote a

* Ford's ed. of Jefferson's *Writings*, vol. vi., p. 401; *American State Papers, Foreign Relations*, vol. i., pp. 178-182; Turner, in *Report of American Historical Association* for 1903, vol. ii., p. 281.

† Lodge, *George Washington*, vol. ii., p. 156; McMaster, vol. ii., pp. 135-136. "A more remarkable chapter can hardly be found in the history of diplomacy, than might be furnished from the records of this mission of Genêt. It is a memorable instance of the infatuation to which a man of respectable talents and private character may be driven by political frenzy."—Sparks, *Life of Washington*, p. 452. See also Tucker, *Life of Jefferson*, p. 312.

‡ Ford's ed. of Washington's *Writings*, vol. xii., p. 302.

* McMaster, vol. ii., pp. 134-135.

dictatorial letter to Washington in which he demanded that the latter make an explicit denial that such a threat had been made.* Washington did not deign to notice this audacious epistle, but Jefferson sent a very frigid note to the effect that the Secretary of State was the proper personage to be addressed by foreign agents, and that it was not customary for them to carry on direct correspondence with the President.† Thereupon Genêt wrote a note to Attorney-General Randolph demanding that the government should prosecute Jay and King for libel, but Randolph told him that it was no affair of the government's and that if Genêt felt abused he must seek redress in the State courts.‡

This unwarranted conduct convinced Washington that Genêt's usefulness to the French government had been so greatly impaired as to necessitate his recall. On August 1 a cabinet meeting was held and it was decided that Genêt must go.|| Therefore on August 16, 1793, Jefferson wrote a letter to Morris, the American minister at Paris, giving a full account of the matter, with the correspondence, to be laid before the French government. He concluded his note by saying, "If our citizens

have not already been shedding each other's blood it is not owing to the moderation of M. Genêt."**

The dignity and firmness of the President had now produced their usual effect,† and the opposition party felt that "an attack on the administration could be placed on no ground more disadvantageous than on its controversy with M. Genêt. The conduct and language of that minister were offensive to reflecting men of all parties. To the various considerations growing out of the discussions themselves, and of the parties engaged in them, one was added which could not be disregarded. The party in France to which M. Genêt owed his appointment had lost its power; and his fall was the inevitable consequence

* *Ibid.*, vol. vi., pp. 371-393; Morse, *Thomas Jefferson*, p. 159. On the preparation of this letter, see Jefferson's *Anas*, in Ford, vol. i., p. 259 *et seq.*

† In writing to Richard Henry Lee, Washington alludes to the trial through which he had just passed. He says: "The specimens you have seen of Mr. Genêt's sentiments and conduct in the gazettes form a small part only of the aggregate. But you can judge from them to what test the temper of the executive has been put in its various transactions with this gentleman. It is probable that the whole will be exhibited to public view in the course of the next session of Congress. Delicacy towards his nation has restrained the doing of it hitherto. The best that can be said of this agent is, that he is entirely unfit for the mission on which he is employed; unless (which I hope is not the case), contrary to the express and unequivocal declaration of his country made through himself, it is meant to involve ours in all the horrors of a European war." — Lodge, *George Washington*, vol. ii., pp. 157-158. On the discussions in the Cabinet regarding Genêt's recall, see Ford's ed. of Jefferson's *Writings*, vol. i., pp. 265 *et seq.*, 270 *et seq.*

* Lodge, *George Washington*, vol. ii., p. 157; Pellet, *John Jay*, p. 288; Bassett, *Federalist System*, p. 96.

† Schouler, *United States*, vol. i., p. 272.

‡ McMaster, vol. ii., pp. 137-141.

|| Ford's ed. of Jefferson's *Writings*, vol. i., p. 252.

of the fall of his patrons. That he would probably be recalled was known in America, and that his conduct had been disapproved was generally believed. The future course of the French Republic toward the United States could not be foreseen; and it would be committing something to hazard not to wait its development." A new minister (Fauchet) was therefore appointed, who arrived in February of 1794. Fauchet was accompanied by three commissioners who were to act with him in all matters concerning the relations of France and the United States. On October 11, 1793, the French Committee of Public Safety decreed that the commissioners should disavow Genêt's conduct and send him back to France. The commissioners were instructed also to disarm the privateers fitted out by Genêt and to dismiss such consuls as had been concerned in any proceedings tending to compromise American neutrality. They were also to attempt the negotiation of a new treaty of commerce.* This had been included in Genêt's instructions, had been urged long before his time, and continued to be urged for some years to come, without result.† Though the commissioners were instructed to send Genêt to France, he never returned because his political friends at home, the Girondists, had fallen from

power, and also because he had married a daughter of Governor Clinton. He continued to live unnoticed in his adopted country until his death at Schodack, New York, July 14, 1834.*

Before he had been superseded, however, the country was given additional evidence of his misconduct. Jefferson had received numerous hints that Genêt's agents were fomenting trouble in the South and West by raising, arming and drilling two armies — one to go down the Mississippi and attack the Spanish settlements at New Orleans, and the other to attack the Floridas. It was stated that 5,000 men were being enlisted in South Carolina in the service of France, and in December of 1793 the Assembly of that State took the matter under advisement. But though several arrests were made and there was plenty of evidence for a conviction, nothing came of the inquiry. The Kentucky authorities did not even go through the form of a prosecution, and the entire matter was dropped.† Though requested by Fau-

* For something of his later history, see Bonney, *Legacy of Historical Gleanings*, vol. i., p. 159 *et seq.*

† See Marshall, *Life of Washington*, vol. ii., pp. 260-284; Lodge, *George Washington*, vol. ii., p. 159; Von Holst, *Constitutional and Political History*, vol. i., pp. 116-117; Ford's ed. of *Jefferson's Writings*, vol. i., pp. 235-236 and vol. vi., p. 316; *Reports of the American Historical Association* for 1896, vol. i., pp. 930-1107; 1897, pp. 569-679; 1903, vol. ii., pp. 10-12, 199, 205, 219-223, 264-268, 567, 826, 840, 990, 1015, 1038, 1048, 1075, 1097; *American Historical Review* for April, 1897, April and July, 1898, January and April, 1905; Albach, *Annals of the West*, p. 663; Amer-

* Turner, in *Report of American Historical Association* for 1903, pp. 287-294.

† *Ibid.*, pp. 9, 108-114, 129, 135, 202, 207, 209, 344, 638, 649, 725, 743.

chet to do so, the government refused to arrest Genêt "upon reasons of law and magnanimity."*

The Genêt affair considerably injured the Republican cause, for the rancorous attacks of Genêt discredited all who supported him. Jefferson, too, became disgusted with his actions, writing to Madison on July 7 as follows:

"Never in my opinion, was so calamitous an appointment made as that of the present Minister of F. here. Hot headed, all imagination, no judgment, passionate, disrespectful, & even indecent towards the P. in his written as well as verbal communications, talking of appeals from him to Congress, from them to the people, urging the most unreasonable and groundless propositions & in the most dictatorial style, &c., &c., &c. Even if it should be necessary to lay his communications before Congress, or the public, they

will excite universal indignation. * * * To complete our misfortune, we have no channel of our own through which we can correct the irritating representations he may make."*

Later, on August 3, he again wrote to Madison:

"We have decided unanimously to require the recall of Genêt. He will sink the Republican interest if they do not abandon him. Hamilton presses eagerly an appeal i. e. to the people. Its consequences you will readily seize, but I hope we shall prevent it tho the Pr. is inclined to it."†

Madison also said that Genêt "must be brought right if possible," or "his folly will otherwise do mischief which no wisdom can repair."‡ The episode tended also to draw Washington to the Federalists, and from that time on he naturally became more and more alienated from Jefferson and Madison.

ican State Papers, Foreign Relations, vol. i., p. 454; *Magazine of Western History*, vol. i., p. 373; Marshall, *History of Kentucky*, vol. ii., p. 99; Shaler, *History of Kentucky*, p. 128; Butler, *History of Kentucky*, 2d ed., pp. 224, 524.

* *American State Papers, Foreign Relations*, vol. i., p. 709; *Report of the American Historical Association for 1903*, vol. ii., pp. 308-309, 313-316, 345.

* Ford's ed. of *Jefferson's Writings*, vol. vi., pp. 338-339.

† *Ibid*, vol. vi., p. 361.

‡ Madison's *Works* (Congress ed.), vol. i., p. 586. See also his letter to Jefferson, August 5, p. 590, September 2, p. 596, to Monroe, p. 601.

CHAPTER VII.

1790-1796.

WESTWARD EXTENSION : THE WHISKEY REBELLION : INTERNAL AFFAIRS.

Joel Barlow and the New England Ohio Company — Gallipolis — Extent of westward settlement — Cherokees' cession of lands in Tennessee — Founding of Knoxville — Founding of Blount College — Social conditions in Tennessee — Indian wars — Tennessee's admission to the Union — The Eleventh Amendment to the Constitution — Case of *Chisholm vs. Georgia* — The Whiskey Rebellion — Washington's Message to Congress, and its answers — The Democratic societies — Peter Porcupine — Amending the naturalization law — Hamilton's plans to support public credit — Recommendation to increase import duties — Internal taxation — Hamilton's retirement — Adjournment of Congress.

Meanwhile the course of westward extension had been steady, though slow. Ohio still remained a desert, with only a few hamlets here and there. On the Ohio, Wheeling, west of Pittsburg, was a place of only 50 cabins, but it boasted of a stockade, and in times of trouble had a garrison of 150 troops. Below Wheeling, near the Muskingum, was Marietta, a town of 200 houses; and still farther down the river, opposite the Little Kanawha, was Belle Pré.*

Close to the mouth of the Great Kanawha stood the interesting town of Gallipolis. The New England Ohio Company had urged Congress to sell its Ohio lands, and the offer to purchase them was extended to take in another company, since famous as

the Scioto Land Company. When this company came into possession of its lands, it sent an agent (one Joel Barlow) to France to procure emigrants.* Going to Paris, Barlow, before 1791, secured 500 emigrants from Havre, Bordeaux, Nantes and Rochelle, to whom he sold title deeds to estates at four shillings per acre. When these emigrants landed at Alexandria, Va., they were detained for some time, and did not begin their journey to the Ohio country before the summer. After innumerable trials, they reached the spot described in their deeds, to find that the Scioto Company did not own a foot of the land and that the whole transaction had been a swindle.†

Nevertheless, they determined to stay where they were, and immedi-

* For the conditions of the various settlements, see Thomas Chapman, *Journal of a Journey through the United States, 1795-96*, in *Historical Magazine* (June, 1869); *Autobiography of Major Samuel Forman*, in *Historical Magazine* (December, 1869). In general, see also Hulbert, *The Ohio River* (1906); Slocum, *The Ohio Country, 1783-1815* (1910).

* King, *Ohio*, p. 217.

† Hulbert, *The Ohio River*, pp. 263-265; McMaster, vol. ii., pp. 146-149. On the transactions by which this territory came to be known as the property of the Scioto people, see King, *Ohio*, p. 219 *et seq.*

ately set to work to make a clearing, soon completing the erection of two solid blocks of log cabins, and the laying out of several kitchens and gardens. But their condition gradually became desperate, owing to lack of food and the constant attacks of Indians;* and in the spring of 1792, fearing starvation and total annihilation at the hands of the Indians, some fled to Detroit, some to Kaskaskia, while a few remained. Chapman described the place as a "small, miserable looking village of upwards of 100 little wretched log cabins," the inhabitants of which were "poor, starved, sickly looking Frenchmen," who had "starvation and sickness strongly pictured on their faces."† To assist them, Congress granted them 24,000 acres of land on the banks of the Ohio, in Lawrence County, opposite the mouth of the Little Sandy. Three years later 1,200 acres were added, and the entire tract was named "The French Grants."‡ This land was to be divided in equal lots among those actually remaining at Gallipolis, November 1, 1794, all widows and all males above the age of 18 participating in the allotment.||

Between Gallipolis and Cincinnati were Limestone, Newport and Colum-

bia, none of which contained more than 70 houses. Below Cincinnati the country was unbroken to the falls of the Ohio, where stood Louisville, then a small but flourishing town. North of the Ohio and east of the Mississippi, in the territory now comprising the States of Michigan and Wisconsin and the northern parts of Indiana and Illinois, lay an unbroken solitude in which Indians and buffaloes roamed at will. At Chillicothe was an Indian village, but Columbus, Cleveland, Toledo, Sandusky and Erie had not yet come into existence.*

According to the census of 1790, there were but 1,081 people and 30 towns in the western part of New York. Canandaigua was the largest town, with 18 houses and 106 inhabitants.† Pioneers came from New Jersey and Pennsylvania by way of the Susquehanna and Tioga rivers, went to Seneca Lake, and thence to Cayuga; and others from Kentucky had entered the valley of the Mohawk by way of Albany and Fort Schuyler. Small settlements sprang up at Bath, Naples, Geneva, Aurora, Seneca Falls, Palmyra, Richmond, Fort Stanwix, and Marcellus. A salt works was established on the shores of Onondaga Lake.‡ West of Seneca

* King, *Ohio*, pp. 218-219.

† Thomas Chapman, *Journal of a Journey through the United States, 1795-96*, in *Historical Magazine* (June, 1869), p. 360.

‡ McMaster, vol. ii., p. 151.

|| King, *Ohio*, p. 222. See also Sparks, *Expansion of the American People*, pp. 129-131; Howe, *Historical Collections of Ohio*.

* McMaster, vol. ii., pp. 151-155.

† J. H. Hotchkiss, *A History of the Purchase and Settlement of Western New York and of the Rise, Progress and Present State of the Presbyterian Church in that Section*, p. 16 (1848).

‡ See Hotchkiss, *Purchase and Settlement of Western New York*, p. 17; Elkanah Watson, *Journal of Travels, principally by Water, from Albany*

Lake lay the millions of acres sold by Robert Morris to the Holland Land Company; and to the east of the Lake was the "Military Tract" of 1,700,000 acres, set apart by New York to pay the bounties due her Revolutionary soldiers.*

During the first session of the Fourth Congress, Tennessee was admitted to statehood. It will be remembered that the land ceded by North Carolina had been formed into "The Territory of the United States of America South of the River Ohio," and in 1790 William Blount was inducted into office as governor. The names of counties were changed, and the commissions given to public officials by North Carolina were revoked and new officials appointed, Sevier and Robertson taking a prominent part in these transactions.† By the exercise of great tact, Blount preserved order on the frontier, and in 1791 entered into negotiations with the Cherokees for the cession of their lands. In the summer of that year the Indians met Blount at Holston, and on July 2 the Treaty of Holston was concluded.‡ In consideration of numerous gifts and an annuity of

\$1,000 (later increased to \$1,500), the Indians abandoned their claims to the lands, the ownership of which had so long been in dispute. By this treaty, and that with the Creeks entered into at New York the previous summer, the Indian title to most of the present State of Tennessee was obliterated, though the Chickasaws still held the westernmost part and the Cherokees certain tracts in the southeast.*

On the ground where the treaty was concluded, Blount laid the foundations of the present city of Knoxville, named after Secretary of War Knox. In 1791 the first Tennessee newspaper — *The Knoxville Gazette* — was here started, which was but four or five years younger than the only other newspaper — *The Kentucky Gazette* — in the far West of the time.† Blount took the lead also in founding schools for higher education; and, after much difficulty, Blount College was organized and opened as a non-denominational institution, the first of its kind in the United States.‡ There were two other colleges in the territory, Greenville and Washington. The ordinary books were still school books, law books and sermons or works on theology. About this time the *Gazette* brought out the first books or pamphlets published in eastern Tennessee, among the titles being *A Sermon in Psalmody* by Rev. Heze-

to the Seneca Lake in 1791. See his *History of the Rise, Progress, and Existing Conditions of the Western Canals in the State of New York*, *passim*. See also the bibliography in Winsor, *Narrative and Critical History*, vol. vii., p. 533 et seq.

* McMaster, vol. ii., pp. 157-158. See also W. Max Reid, *The Mohawk Valley, Its Legends and Its History*.

† Roosevelt, *Winning of the West*, vol. iv., pp. 101-104.

‡ For text, see *American State Papers, Indian Affairs*, vol. i., pp. 124-125.

* Roosevelt, p. 106.

† *Ibid.*, vol. iv., pp. 106-109.

‡ Edward T. Sanford, *Blount College and the University of Tennessee*, p. 13.

kiah Balch, *A Discourse by the Rev. Samuel Carrick*, and a legal treatise entitled *Western Justice*. The poets already had their corners in the papers, their contributions ranging from *An Epitaph on John Topham* to *The Pernicious Consequences of Smoking Cigars*.

Settlers now began to flock into East Tennessee, among the more prominent being General Griffith Rutherford, and by 1794 the State contained 5,000 free male inhabitants, which number was necessary before Tennessee could legally be erected into a territory. Accordingly, Blount summoned a legislative assembly, to meet at Knoxville, August 17, 1794, to form a territorial government. One of the first acts of the Legislature was to establish institutions for higher education, and John Sevier was made a trustee of both Blount and Greenville colleges. Lotteries were started to begin the building of the Cumberland road to Nashville, and to build a jail and stocks in Nashville. A poll tax of 25 cents was laid on all taxable white polls and of 50 cents on negro polls. Land was taxed at the rate of 25 cents per hundred acres; town lots were taxed \$1, and a stud horse was taxed \$4. A pension act was passed for disabled soldiers, for widows and orphans.*

Various industries were then started. Blacksmiths were already plentiful, and now a goldsmith and

jeweler set up an establishment. Ferries were established at important crossings, taverns were erected in the county seats and small towns, and stores of all kinds were opened, the merchants obtaining their goods chiefly at Philadelphia and Baltimore. Most of the trade was carried on by barter, as there was but little coin money and but few bank notes. The chief articles of sale were salt, brandy, wine, whiskey, rum, groceries, pewter ware, iron mongery, corduroys, linens, ribbon, etc., while imported glass was advertised, and fresh meat could be had twice a week.* Considerable attention was paid to cattle-raising and the breeding of fine horses. On account of the frontiersmen's tendency to settle their quarrels by personal combat, there was much lawlessness, and with the establishment of courts lawyers did a thriving business.

Land speculation seized upon the settlers, Blount and Robertson among them. Soon after his settlement in this region, Blount had entered into an agreement with Robertson whereby the former was to purchase land claims amounting to 50,000 acres, from officers and soldiers, and to enter them for the Western territory; while Robertson was to survey and locate the claims, taking as his share one-quarter of the proceeds. This agreement continued during Blount's term of office as governor.

* Roosevelt, *Winning of the West*, vol. iv., pp. 110-112.

* Roosevelt, vol. iv., p. 114.

When Tennessee became a State, Blount was taxed on 73,252 acres, the taxes, however, amounting to only \$179.72.* Sevier was interested also in land speculation, and in various mercantile ventures of a more or less speculative nature. So were most prominent Americans in both public and private life, such speculation at that time arousing no comment, as public servants were paid meagre salaries and were allowed to conduct private business enterprises which did not interfere with the performance of public duties.

The tranquillity of Blount's administration was disturbed, however, by Indian wars, the Indians this time being the aggressors. As previously stated, by the treaties of Holston and New York the whites had secured the cession of most of the Tennessee lands belonging to the Indians, but the Indians almost immediately broke these treaties. The Cumberland district had been granted several times by the Indians—to Henderson, to the North Carolinians and to the United States, while the Creeks had never laid claim to this territory. Yet the Creeks and other Indians now asserted that this region had never been ceded and that those who settled in it, being outside of United States territory, were not entitled to protection under the treaty between the Indians and the United States. Blount, Robertson, Sevier and District Attor-

ney Andrew Jackson used their utmost endeavors to prevent infringements of the treaty by the whites, in which they were quite successful; but the Indians failed to appreciate these efforts and continued their work of plunder and murder.*

The Spaniards still claimed the Southwest and were untiring in their efforts to keep the Indians hostile to the United States. On May 14, 1792, they concluded a treaty with the Creeks, Cherokees, Choctaws and Chickasaws, at the same time as these Indians had concluded their treaties with the Americans. The Spaniards supplied them with arms and established two forts in the Indian territory. The Creeks became divided among themselves over these treaties, some wishing to carry out in good faith the treaty of New York, while others threatened to attack any who attempted to put its provisions into effect. Carondelet endeavored to force the Creeks to abstain from warfare with the Chickasaws, by refusing to supply them with arms and ammunition for such a purpose or for any other save that of opposing the frontiersmen. At the same time the Spaniards sought to placate the Kentuckians by reducing duties on goods sent down the Mississippi, all the while keeping the government busy with idle negotiations.†

Conscious that they had not wronged the Indians and had scrupu-

* Roosevelt, *Winning of the West*, vol. iv., pp 116-118.

* Roosevelt, vol. iv., pp. 121-125.

† *Ibid.*, vol. iv., pp. 125-130.

ously observed the treaty, the Tennesseans grew embittered at the continued outrages of the Indians, particularly as the government evinced no disposition to put a stop to the savage inroads. On October 30, 1792, Sevier wrote to Madison as follows:

"This country is wholly involved in a war with the Creek and Cherokee Indians, and I am not able to suggest the reasons or the pretended cause of their depredations. The successes of the Northern tribes over our late unfortunate armies have created great exultation throughout the whole Southern Indians, and the probabilities may be they expect to be equally successful. The Spaniards are making use of all their art to draw over the Southern tribes, and I fear may have stimulated them to commence their hostilities. Governor Blount has indefatigably labored to keep these people in a pacific humor, but in vain. War is unavoidable, however ruinous and calamitous it may be."

The government had ordered the militia to act only on the defensive, and in executing these orders Blount incurred the ill-will of the frontiersmen, who knew the exact situation and how to handle it; on the other hand, he would be held strictly accountable to the government for any overt act on the part of the frontiersmen. The defeats inflicted on St. Clair and Harmar greatly encouraged the Southern Indians, who now became still bolder in their incursions in Tennessee. In May of 1792, however, the Cherokees seemed desirous of making peace, and Governor Blount met them at Coyatee, where the Indians pledged themselves to prevent further outrages.* But on

May 17, even while this meeting was being held, the party of Judge Campbell, of the Miro district court, was attacked and one of its members killed.* Within a few days several similar outrages were committed. It was rumored even that a strong war party was about to fall upon the settlements surrounding Nashville.† Blount thereupon organized a body of 300 militia. On September 30 a party of 200 Cherokees, 80 Creeks, and some Shawnees marched swiftly to the Cumberland district and made an attack upon Buchanan's Station; but, being repulsed with some loss, fell back to their strongholds across the Tennessee.‡ Outrage followed outrage in wearisome, bloody succession, concerning which there is no need to go into detail. Men, women and children were killed or captured; isolated cabins and settlements were stormed and burned, their inhabitants being put to the scalping knife. The whites were still restrained by strict orders from the government authorities forbidding them to conduct raids into the Indian territory, as a result of which the marauding Indians could plunder the white settlements at any time and quickly reach a place of safety. In 1792 Andrew Pickens was dispatched to ascertain the possibility of concluding a

* Roosevelt, vol. iv., pp. 141-142.

† Blount to Secretary of War, September 11, 1792, *American State Papers, Indian Affairs*, vol. i., p. 276.

‡ *American State Papers, Indian Affairs*, vol. i., pp. 294-295. The figures given in the text vary greatly from Blount's letter in *ibid*, p. 331.

* *American State Papers, Indian Affairs*, vol. i., pp. 256, 267 *et seq.*

permanent treaty, but he was obliged to admit that there was no chance of ever bringing about a truce and that the nominal peace already obtaining was worse for the settlers than actual war.*

Blount, Sevier and Robertson put forth their utmost efforts to prevent counter-expeditions into Indian territory, and whenever such bands were known to be gathering they were quickly ordered to disperse and entreated to observe the law. The frontiersmen were highly indignant at not being allowed to punish their foes, the more so as these foes were regularly receiving their annuities and many presents while committing their outrages.† In 1794, therefore, the Territorial Legislature petitioned Congress to make war on the Creeks and Cherokees, or at least to allow the Tennesseans to defend themselves in the only manner possible — by offensive warfare.‡

Meanwhile the situation became intolerable, disaster after disaster falling upon the frontier settlements. In 1792 Sevier had been summoned to take command of the militia, and for a year devoted his time to defending the various settlements. Immediately after the massacre of September, 1793, near Knoxville, Sevier, without consulting the government, took the

war path, went entirely through the Cherokee country to the land of the Creeks, burning villages, destroying provisions, and completely demoralizing the Indians.* For a short time thereafter the Indian ravages ceased, but because Sevier had invaded the Indian country instead of acting on the defensive, Congress refused to pay the militia for the time they were in service.†

In September, 1794, the Cumberland people also decided to act for themselves. Early in the month Robertson had received information that a large body of Creeks and Cherokees were preparing to invade the Cumberland district. Determined to forestall them, he sent a body of 500 riflemen against the Chickamauga towns, which contained some 300 warriors. Taking the town completely by surprise, Robertson's party, with a loss of only one killed and 3 wounded, killed 55 Indian warriors, and captured 19 squaws and children.‡ While both Blount and the Federal authorities had disapproved of this expedition, still it brought the hostile tribes to reason. A conference with the delegates followed at Tellico Blockhouse (November 7-8, 1794), and the Indians seemed sincerely desirous

* See his report to Blount, October 25, 1793, in *American State Papers, Indian Affairs*, vol. i., pp. 469-470.

† Roosevelt, vol. iv., pp. 161-162.

‡ *Ibid*, pp. 163-164. See also Robertson's letter to Blount, October 8, 1794, *American State Papers, Indian Affairs*, vol. i., pp. 529-530.

* *American State Papers, Indian Affairs*, vol. i., pp. 316-317; Roosevelt, vol. iv., pp. 143-149.

† See the letter regarding this in *American State Papers, Indian Affairs*, vol. i., p. 368 *et seq.*

‡ Roosevelt, vol. iv., pp. 149-158.

for peace* These counter attacks awed the hostile Cherokees and forced the friendly Cherokees, for the sake of their own safety, to interpose against the bands of hostile Creeks. The Chickasaws had now become involved in war with the Creeks, in which they were aided by the frontiersmen. In addition, the Indians were now much cowed by the news of Wayne's victory in the North. Finally the peaceful Creeks exerted so much influence on their warlike brethren that they yielded, though not until bitter feeling had arisen between the factions. The entire tribe then concluded a treaty (June 29, 1796) the provisions of which were substantially the same as those of the treaty of New York.† Throughout the whole controversy the Federal government had acted disgracefully, which conduct was the more inexcusable as Blount, Sevier, Robertson, and the Tennesseans showed an intelligent appreciation of the benefits of the Union and a readiness to render it loyal support. However, the Indian outrages ceased again, and this time peace continued unbroken for fifteen years.‡

Settlers now thronged into Tennessee. A wagon road had been chopped to the Cumberland district, and, after the Indian outrages had ceased, the

settlements about Nashville began to grow as rapidly as those along the Holston. When the territory had been ceded to Congress for the last time in 1792, it contained a population of 35,691, but by 1795 that had grown to 66,649 freemen and 10,713 slaves,* — more than the number required for admission to the Union. On January 11, 1796, a convention gathered at Nashville to frame a State constitution, and when this had been ratified, a legislature was chosen and General Sevier was elected governor. William Blount and William Coeke were chosen Senators, and Andrew Jackson was the first Representative. On May 4 Sevier took the oath of office. As the Presidential election was near at hand and as Tennessee was strongly Republican, the Federalists endeavored to prevent the passage of the act of admission; but they could not muster a majority against the bill, and on June 1, 1796, it was passed.† Thus Tennessee became a member of the Union.‡

* See the census in *American State Papers, Miscellaneous*, vol. i., p. 147.

† For the proceedings in Congress, see *Annals of Congress*, 4th Congress, 1st session, pp. 892, 916, 1300-1329, 1462-1463, 1473-1474, 1487, 1489; Benton, *Abridgment*, vol. i., pp. 754-759.

‡ Phelan, *History of Tennessee*, chap. xx.; McMaster, vol. ii., pp. 184-185; *The South in the Building of the Nation*, vol. ii., pp. 480-481; Joshua W. Caldwell, *Constitutional History of Tennessee*. The text of the act will be found in Thorpe, *Federal and State Constitutions*, vol. vi., p. 3414. Other phases of the dispute between North Carolina and the citizens of the later State of Tennessee may be studied in Albach, *Annals of the West*, p. 507 *et seq.*; Knoxville in the Olden Time, in *Harper's Magazine*, vol. lxxi., p. 69;

* See the letters regarding this in *American State Papers, Indian Affairs*, vol. i., p. 531 *et seq.* The proceedings are on pp. 587-616.

† Text in *ibid.*, vol. i., pp. 586-587; proceedings, pp. 587-616.

‡ Roosevelt, vol. iv., pp. 164-170.

The Constitution provided for an elective governor and two legislative houses. The representation was proportioned, not to the population at large, but to tax-payers. Religious liberty and freedom of the press were established, but the judges were to be appointed by the Legislature and to be completely subservient to it. The land speculators secured the provision that all lands except town lots were to be taxed alike, so that those who secured the best sites shifted much of the burden to other shoulders *

On January 15, 1794, during the first session of the Third Congress, and while the debate on Madison's resolutions was in progress, a message was sent by the Senate to the House asking its concurrence in a proposed constitutional amendment to be submitted to the States for approval. This amendment in time became the Eleventh and in substance declares that a citizen cannot sue a State. The cause for this amendment arose in

this manner. Alexander Chisholm, an executor and a citizen of South Carolina, had begun a suit against the State of Georgia, and the case was entered for pleading before the Supreme Court during the August term, 1792, Attorney-General Randolph acting as counsel for the plaintiff. As Georgia did not appear by counsel, Randolph moved that on the fourth day of the next term judgment should be entered against the State, unless she appeared before the Court and showed sufficient reasons for failing to do so.* But the Court postponed consideration of this motion until February 5, 1793.

Meanwhile, on December 14, 1792, the Georgia Legislature determined that the State would not obey this summons, because, if it should, suits without number would undoubtedly be instituted for paper issued from the Treasury to supply the needs of United States troops, thereby laying perpetual taxes upon the citizens and endangering the sovereignty of the State. Under the terms of the second section of the third article of the Constitution, the State claimed that the Supreme Court was not possessed of power to force the State to answer any process that might be sued out, and that the State could not be held liable for any judgment.

In February of 1793, when the matter was argued before the Supreme Court, several questions arose; first,

Gannett, *Boundaries of the United States*, p. 108 *et seq.*; I. W. Andrews, in *Magazine of American History* (October, 1887); J. G. M. Ramsey, *Annals of Tennessee*; John Haywood, *Civil and Political History of Tennessee to 1796*; W. H. Carpenter, *History of Tennessee*; W. W. Clayton, *Davidson County, Tenn.*; A. W. Putnam, *History of Middle Tennessee, or the Life and Times of Gen. James Robertson* (Nashville, 1859); J. R. Gilmore, *John Sevier as a Commonwealth Builder* (New York, 1887); Isaac Smucker, *Southwestern Territory*, in *Magazine of Western History* (August, 1887); James D. Davis, *History of Memphis* (Memphis, 1873).

* For text of constitution, see Thorpe, *Federal and State Constitutions*, vol. vi., pp. 3414-3425.

* Conway, *Edmund Randolph*, p. 168.

as to whether Georgia could be made a defendant before the Supreme Court in a suit brought by a citizen of South Carolina; secondly, as to whether, if the State were made a defendant, an action of assumpsit would lie against her; thirdly, as to whether the summons served was competent; and fourthly, as to how the State could be forced to appear. Randolph argued that the State could be made a defendant as well as a plaintiff, and therefore an action of assumpsit could lie against her.* After two weeks of deliberation, the court handed down a decision written by Judge James Wilson and concurred in by Chief Justice John Jay, and Justices Blair and Cushing, Justice Iredell dissenting. It said that a State was a collection of free citizens united together to enjoy the fruits of their labors in peace, each doing the other justice under the same laws and according to the same legal standards. The State—the central government which represented the will of the people—had obligations as well as rights. If it had power to make a contract, there ought to be means of compelling adherence to the terms of that contract; and if it were dishonest, it should be amenable to the same law as a dishonest merchant. It should not be allowed to hide behind the cry of sovereignty.† The people were not its subjects, but all citizens possessed

equal rights. Ten States had banded together into a nation, had established a national government and delegated to it legislative, executive and judicial powers which were of equal force and weight in each State and throughout the land. Therefore, if the citizens of any one State could sue the other citizens of the same State, either singly or collectively, then there was no reason why they, being citizens of a nation, could not sue the other citizens of a nation either singly or collectively as represented by the State. For instance, Philadelphia contained 40,000 free citizens possessed of equal civil rights, and any one of these could obtain justice from the others by suing in the courts. Delaware contained 50,000 citizens possessing the same rights. But suppose the State of Delaware should dishonestly treat a citizen of Philadelphia, was it just that he should be unable to obtain redress by suing in the courts? If such were the case, the citizens of the smallest States could rob the citizens of all the others at will with impunity, and there was no court in the land through which they could demand satisfaction.

The court therefore decided that the State of Georgia was amenable to the Supreme Court and that the action lay. The State was ordered to appear or to show cause why not, or to suffer judgment by default. Fearing the consequences of this decision, Congress thereupon passed the proposed amendment without debate, the

* Conway, *Edmund Randolph*, p. 169 *et seq.*

† *Ibid.*, pp. 172-173.

resolution appearing in the Senate on January 2, 1794, and passing the House March 4.* It was as follows:

"Article xi.—The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign state."

There were other disturbances with which the government had to contend. The distillers of whiskey were gradually becoming more outspoken in their opposition to the excise law imposing duties on domestic spirits. The chief centre of the opposition was in the four western counties of Pennsylvania—Washington, Alleghany, Fayette and Westmoreland—where there were a large number of stills. As in that region a great quantity of whiskey was made and consumed, the duty there was most hated. The law went into effect July 1, 1791, and in all the large States officers began to brand tuns, puncheons and pipes with the words "Old Stock." No one could be found, however, who could do this work in the whiskey region, and in August and September of that year two conventions were held (one at Washington and one at Pittsburgh) at which the excise law was denounced, the people were called upon to withhold from the excise inspector all comfort and support,† and the

measures of Congress were severely criticised.*

The collector for the counties of Alleghany and Washington attempted to perform his duties, but early in September he was waylaid by a party of armed men, who stripped, tarred and feathered him, cut off his hair, and took away his horse.† He recognized some of his assailants and swore out warrants for their arrest; but so angry and threatening was the mood of the people that neither the marshal nor his deputy would undertake to serve them. Only a half-witted cow driver could be induced to accept the mission, and he only because he did not understand the significance of the papers he bore. He likewise was treated to a coat of tar and feathers and a severe whipping, but the object of his mission was not attained. Others who thought the laws of the government ought to be obeyed received the same treatment.‡

On May 8, 1792, the first session of the Second Congress passed an act taxing spirits of the first proof and distilled from materials grown or produced in the United States, 7 cents per gallon. On spirits of the second proof, the tax was to be 8 cents; of third proof, 9 cents; fourth

* McMaster, vol. ii., pp. 182-186; Conway, *Edmund Randolph*, p. 174 *et seq.*

† H. H. Brackenridge, *Incidents of the Insurrection*, vol. iii., p. 17.

* John A. Stevens, *Albert Gallatin*, p. 52; McMaster, vol. ii., pp. 41-42; Bassett, *Federalist System*, pp. 106-107.

† William Findley, *History of the Insurrection in the Four Western Counties of Pennsylvania in the year 1794*, p. 58 (ed. 1796).

‡ Sharpless, *Two Centuries of Pennsylvania History*, p. 240; McMaster, vol. ii., pp. 42-43.

proof, 11 cents; fifth proof, 13 cents, and of sixth proof, 18 cents. If the capacity of a still were less than 400 gallons, the proprietor might pay a yearly tax of 54 cents for each gallon capacity, 7 cents for each gallon distilled or 10 cents per gallon on the capacity for each month the still was in operation.*

Among other things, the distillers complained that they were compelled to go a long distance to Philadelphia to stand trial for offences in the Federal Court there, as the State courts had no jurisdiction in the matter of excise.† As the distance was often 350 miles, this worked hardship on all the distillers of western Pennsylvania; therefore Congress, early in 1794, resolved to render the trials of offense somewhat easier on the delinquents. A bill for this purpose was presented in the House on April 4 and passed on May 24; on May 30 it was amended, passed by the Senate, and returned to the House; an agreement between the two Houses was reached on June 3, and the bill was passed and was signed by the President on June 5. The ninth section of the act provided that the State courts should have jurisdiction over cases arising more than 50 miles from the nearest Federal Court.‡

Meanwhile warrants had been sworn out against 75 distillers who had disobeyed the law, but so slow were the officials that not before July did the marshal attempt to serve them. All went well until only one remained, but in attempting to serve that the marshal was attacked by an armed force and fired upon, though without injury. Soon afterward he was captured by an armed mob, and, under fear of immediate death, compelled to promise that he would serve no more processes on the west side of the Alleghany mountains*. On the morning of July 16, 1794, the house of General John Neville, the inspector, was attacked, but the assailants were quickly driven off. Apprehending a more powerful attack, the inspector applied to the judges, civil magistrates and military officers for protection, but was informed that the opposition against the execution of the law was so general throughout the region that the requested protection could not be given. Shortly afterward the attack was renewed by a body of 500 men, and the inspector, realizing his inability effectively to resist so large a force and that his life was in jeopardy, fled; but a few men from the garrison at Pittsburg remained, in the hope of saving the property. The attacking party demanded that the inspector resign his office, but was informed that, upon

* *Statutes-at-Large*, vol. i., pp. 267-271.

† Gordy, *Political History*, vol. i., pp. 207-208; *Annals of Congress*, 2d Congress, 1st session, pp. 1374-1379.

‡ McMaster, vol. ii., p. 190; Adams, *Life of Gallatin*, pp. 88, 91, 125; Schouler, *United States*, vol. i., p. 291.

* See Washington's proclamation of August 7, 1794, in Richardson, *Messages and Papers*, vol. i., p. 159.

their approach, he had retired to some unknown place. The assailants then demanded the papers belonging to his office, and, after a short but indecisive parley, an attack on the house began. As a result, one of the assailants was killed and a number on both sides were injured. Finally the house was set on fire and destroyed. The marshal and inspector escaped down the Ohio, and by a circuitous route reached the seat of government.

Not satisfied with attacking individuals, the leaders of the opposition became embroiled with the government.* David Bradford, one of the leaders, in order to involve the whole western country, caused the mail to be stopped by force, and some letters written by people at Pittsburg giving an account of the proceedings of the insurgents, were taken out and opened.† While the turbulence was at its height, Bradford, James Marshall and five others directed the officers of the local county militia to assemble at Braddock's Field, August 1, with as many volunteers as could be mustered, armed, equipped and supplied with four days' rations. On the appointed day about 2,000 armed militia assembled at Braddock's Field, but, as there was great diver-

sity of opinion among the leaders as to the line of action, it was concluded not to attack the United States garrison at the fort, as some had desired, and the demonstration resolved itself into a mere march through the streets of Pittsburg to frighten the inhabitants. The burning of a barn was the only violence committed.* The writers of the intercepted letters, which were read aloud at Braddock's Field to inflame the passions of the militia, had already fled from Pittsburg to escape the vengeance which otherwise might have been wreaked upon them.† Meanwhile the leading rioters had called a meeting,‡ which ended in the issuing of an unsigned invitation to the townships of the four western counties of Pennsylvania and of those adjoining in Virginia, to elect delegates to a convention to meet August 14, at Parkinson's Ferry, in Washington County, on the Monongahela.¶ The avowed objects of these outrages were to "prevent by force of arms the execution of said [excise] laws, to oblige the said inspector of the revenue to renounce his said office, to withstand by open violence the lawful authority of the government of the United States, and to compel thereby an alteration of the measures of the

* McMaster, vol. ii., pp. 190-192; Stevens, *Albert Gallatin*, pp. 69-70; Gordy, *Political History*, vol. i., p. 208; Schouler, *United States*, vol. i., p. 291.

† McMaster, pp. 192-193; Bassett, *Federalist System*, p. 109.

* Schouler, *United States*, vol. i., p. 292.

† *Memoirs of the Pennsylvania Historical Society*, vol. vi., pp. 183-187.

‡ Findley, *History of the Insurrection in the Four Western Counties of Pennsylvania*, p. 95.

¶ Stevens, *Albert Gallatin*, pp. 71-72.

Legislature and a repeal of the [excise laws].” *

The President was by this time considerably alarmed, fearing particularly that the militia, if called upon to suppress the insurrection, might refuse to obey. There was no alternative, however, but to compel submission to the laws by military force, and the President met the emergency with great firmness.† The laws of the country required that a judge should certify “that the laws of the United States were opposed, or their execution obstructed by combinations, too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers invested in the marshals,” and that “if the militia of the State where such combinations may happen, shall refuse or to be insufficient to suppress the same, the president may employ the militia of other states.”

* See Washington's proclamation, *Richardson Messages and Papers*, vol. i., p. 159.

† A long time previous he had written to Hamilton, saying: “If, notwithstanding, opposition is still given to the due execution of the law, I have no hesitation in declaring, if the evidence of it is clear and unequivocal, that I shall, however reluctantly I exercise them, exert all the legal forms with which the executive is invested to check so daring and unwarrantable a spirit. It is my duty to see the laws executed. To permit them to be trampled upon with impunity would be repugnant to it; nor can the government remain a passive spectator of the contempt with which they are treated. Forbearance, under a hope that the inhabitants of that survey would recover from the delirium and folly into which they were plunged, seems to have had no other effect than to increase the disorder.” See Lodge, *George Washington*, vol. ii., pp. 122-123.

Judge James Wilson filed the necessary certificate,* and the subject was taken under consideration by the Cabinet.† Governor Mifflin, of Pennsylvania, was also consulted. Mifflin said that the available militia of the State was insufficient to suppress the insurrection and that it was impossible to tell whether the militia of other States would serve. The insurgents might call in the aid of the British, and as a result the Union might be dissolved. The various parties in the country were highly inflamed and “one character alone could keep them in awe; and if the sword were drawn it [would] be difficult to restrain them.”‡ The Cabinet members concurred in the appointment of commissioners to grant full pardon for past offences, provided the insurgents submitted. There was a difference of opinion, however, as to any further measures. The act of Congress covering such an emergency provided that before military force were employed the President should issue a proclamation, commanding the insurgents to disperse within a limited time. The Secretary of State and Governor Mifflin were of the opinion that this conciliatory measure should not be

* *American State Papers, Miscellaneous*, vol. i., p. 85. For the evidence on which he based his certificate, see *Magazine of Western History* (September, 1887, p. 514, and November, 1887, p. 104).

† See *The Proceedings of the Executive Respecting the Insurgents* (Philadelphia, 1795).

‡ Hamilton, *History of the Republic*, vol. vi., p. 71.

given a coercive tone. The Secretaries of the Treasury and of War, and the Attorney-General held differently. They thought that the present emergency required a full test of the ability of the government to enforce obedience to its laws, and that sound policy demanded the immediate employment of a sufficient force to put down the rebellion. Hamilton said the question was, "Shall the majority govern or be governed? Shall the nation rule or be ruled? Shall the general will prevail, or the will of a faction? Shall there be government or no government?"* He urged that the militia should be called out and that the force should be so imposing as "to frighten from opposition, save the effusion of blood of citizens, and secure the object to be accomplished." In the counties wherein the spirit of insurrection was most prevalent were 16,000 men capable of bearing arms, and it was computed that they could put 7,000 effective men into the field. To offset this and completely to overawe the insurgents, an army of 12,000 men ought to be sent.

There was no doubt in Washington's mind as to the course which ought to be pursued. In a letter to Henry Lee, he said: "No citizen of the United States can ever be engaged in a service more important to his country. It is less than to consolidate and to preserve the blessings of the

revolution, which at much expense of blood and treasure, constituted us a free and independent nation." Accordingly, on August 7, he issued a proclamation* commanding the insurgents to disperse before September 1, warning all persons against aiding, abetting or comforting the insurgents, and requiring all officers and other citizens, according to their duties and the laws of the land, to put forth every effort to suppress such dangerous proceedings. On the same day a requisition was made on the governors of Pennsylvania, New Jersey, Maryland and Virginia for sufficient militia to compose an army of 12,950 men,† which number was afterward increased to 15,000. Mifflin believed that this step would result in strengthening the revolt, for he doubted that the State militia would "pay a passive obedience to the mandates of the government." So doubtful was he of the result that, when the requisition was sent out, he travelled over the State and used his great eloquence to secure the quota of the State.‡

* Richardson, *Messages and Papers*, vol. i., pp. 158-160; Sparks' ed. of *Washington's Writings*, vol. xii., p. 125.

† Sparks, *Life of Washington*, p. 460; McMaster, vol. ii., p. 196.

‡ Gordy, *Political History*, vol. i., p. 219. Writing to Sedgwick, February 2, 1799, Hamilton said: "In the expedition against the western insurgents, I trembled every moment lest a great part of the militia should take it into their heads to return home, rather than go forward."—J. C. Hamilton, *History of the Republic*, vol. vii., p. 278. See also Von Holst, *Constitutional and Political History*, vol. i., pp. 101-102.

* Hamilton's *Works*, vol. vi., p. 18. See also Sumner, *Life of Alexander Hamilton*, pp. 193-194; Lodge, *Alexander Hamilton*, p. 180 *et seq.*

Washington was unwilling to resort to military force until every other expedient had failed, and he made one more effort to bring the disaffected to a sense of their duty. He appointed James Ross, Jasper Yates, and William Bradford commissioners to confer with the insurgents and to represent to them that the President had no desire to exercise military power, but wished to render it unnecessary by effecting a peaceful solution of the difficulties. These commissioners were empowered to promise amnesty on condition of future submission to the laws.* Pennsylvania also appointed two commissioners to conduct negotiations in conjunction with those of the United States.† Among the commissioners were General William Irvine, Senator James Ross, Attorney-General Bradford, and Chief Justice McKean, of Pennsylvania.‡

On August 14 the insurgents' convention was held at Parkinson's Ferry, and was attended by 226 delegates, of whom 93 were from Washington County, 49 from Westmoreland, 43 from Alleghany, 33 from Fayette, 2 from Bedford, and 5 from Ohio County in Virginia. Edward Croke was elected chairman and Albert Gallatin, secretary.|| Bradford attempted to induce the assembly to

commit treasonable acts, but with very little success. After organizing for business, Mr. James Marshall introduced some resolutions of a very stringent nature, which, after modification, were passed. The second of these resolutions called for a committee of public safety "to call forth the resources of the Western country to repel any hostile attempts that may be made against the rights of the citizens or of the body of the people." The adoption of this resolution would have committed the people to overt rebellion, and Gallatin fiercely opposed it. He asserted that no hostile attempts on the rights of the people were threatened and drew an adroit distinction between the regular army, which had not been called out, and the militia, who were of the people themselves. After much argument, Marshall withdrew his resolution.* Sixty members were appointed as a committee of safety, fifteen of this number being chosen to receive and report the propositions of the commissioners appointed by Washington and the State authorities. The conference was held at Pittsburg. A general amnesty was promised on condition that the insurgents submit to the laws, and the committee of fif-

* Their instructions are in *American State Papers, Miscellaneous*, vol. i., pp. 86-87.

† Bassett, *Federalist System*, p. 110.

‡ Schouler, *United States*, vol. i., p. 293.

|| Stevens, *Albert Gallatin*, pp. 80-81.

* Stevens, p. 82; Schouler, *United States*, vol. i., p. 293. See also Gallatin's *Speech in the Assembly of Pennsylvania* (Philadelphia, 1795). His *Memoir on the insurrection* is in Townsend Ward's *Insurrection of 1794*, in *Pennsylvania Historical Society Memoirs*, vol. vi. (cf. *Pennsylvania Hist. Soc. Coll.*, vol. i., p. 349; *Penna. Mag. of Hist.*, vol. v., p. 440).

teen unanimously favored the acceptance of the terms offered by the government. The larger committee of safety was somewhat divided in sentiment as to the proper course (the vote for submission standing 34 in favor and 23 against) and decided to refer the question to the people. The result of this reference showed that a large number were disposed to resist the reestablishment of civil authority.* In reporting to the President, September 24, therefore, the commissioners declared "that there is no probability that the act for raising a revenue on distilled spirits and stills can at present be enforced by the usual course of civil authority, and that some more competent force is necessary, to cause the laws to be duly executed, and to insure to the officers and well-disposed citizens, that protection, which it is the duty of government to afford."†

Accordingly, on September 25, Washington issued his second proclamation, putting the military force into motion, and declaring that this step was taken "in obedience to that high and irresistible duty consigned to him by the Constitution, to take care that the laws be faithfully executed;" and proclaiming that he would reduce the refractory to a due

subordination to the law.* The militia was soon assembled and the general direction of it committed to Hamilton.† General Thomas Mifflin led the Pennsylvania troops, and those of New Jersey (forming the right wing), were commanded by Governor Richard Howell. The left wing was composed of Virginia troops under Daniel Morgan and the Maryland troops under Samuel Smith, a Revolutionary soldier. The chief command was confided to Governor Henry Lee, of Virginia.‡ The army began its march into the insurgent country in October and soon affected the complete submission of the insurgents. A few of the leaders were seized and some detained for prosecution. These leaders, with the word "Insurgent" on their hats, were marched through the streets of Philadelphia; Bradford escaped into the Spanish dominions; two others of the leaders were tried for treason and found guilty, but were subsequently pardoned by the President (though Hamilton desired a severe penalty.)|| To guard against further outbreak,

* Richardson, *Messages and Papers*, vol. i., pp. 161-162; *American State Papers, Miscellaneous*, vol. i., p. 97.

† Sparks, *Life of Washington*, p. 461. See also Lodge, *George Washington*, vol. ii., pp. 125-126; Lodge, *Alexander Hamilton*, p. 183. For Hamilton's correspondence with Washington while he was with the troops, see *Hamilton's Works*, vol. v., pp. 42-55 (ed. 1851).

‡ Stevens, *Albert Gallatin*, p. 91.

|| Hamilton's ed. of *Hamilton's Works*, vol. v., pp. 50-55; Schouler, *United States*, vol. i., p. 295. The report of the trial is in Wharton, *State Trials*, p. 102 *et seq.*

* McMaster, vol. ii., pp. 200-202. On Gallatin's efforts to secure the submission of the people, see Stevens, *Albert Gallatin*, p. 84 *et seq.* See also Von Holst, *Constitutional and Political History*, vol. i., p. 96 *et seq.*

† For the report and documents, see *American State Papers, Miscellaneous*, vol. i., pp. 87-97.

General Morgan, with 2,500 troops was left in the centre of the disturbed district until the following spring.* Thus, without bloodshed, was this insurrection quelled.†

* Stevens, *Albert Gallatin*, p. 96.

† On the Whiskey Insurrection, see William Findley, *History of the Insurrection in the Four Western Counties of Pennsylvania* (1794); H. H. Brackenridge, *Incidents of the Insurrection*; H. M. Brackenridge, *History of the Western Insurrection*; Townsend Ward, *The Insurrection of the Year 1794 in the Western Counties of Pennsylvania*, in *Memoirs of the Historical Society of Pennsylvania*, vol. vi.; the account by J. Carnahan in *Proceedings of the New Jersey Historical Society*, vol. vi.; *Report of the Secretary of the Treasury* * * * relative to the execution of the Excise Law in certain Counties of Pennsylvania; the journals of the military expedition in the *Historical Register* (Harrisburg, 1883, pp. 64, 134); and in *Proceedings of the New Jersey Historical Society*, vol. viii.; *The Nation's First Rebellion*, in *Magazine of American History* (October, 1884). Personal relations will be found in the *Autobiography of Charles Biddle*, p. 262; G. M. Dallas, *Life and Writings of A. J. Dallas*, p. 33 and App. The party views of the Federalists will be found in *Porcupine's Works*, vol. i., and a contemporary view of the salutary effect of the exercise of Federal power in suppressing the rebellion, is in *Proceedings of the American Antiquarian Society* (April, 1887, p. 373). The Republican view is in Randall, *Life of Jefferson*, vol. ii., p. 241; Rives, *Life of Madison*, vol. iii., p. 452; and, in a violent form, in J. T. Callender, *Sketches of the History of America* (Philadelphia, 1798). Washington's message of November 19, 1794, will be found in Richardson, *Messages and Papers*, vol. i., pp. 162-168; and extracts in *American State Papers, Miscellaneous*, vol. i., pp. 83-85 (where will also be found the proclamations of August 7 and September 25, together with the papers accompanying the message) and MacDonald, *Select Documents*, pp. 130-135. The papers relating to the affair are also in *Annals of Congress*, 4th Congress, 1st session, App., pp. 2791-2868. Gallatin's account of the insurrection is in his *Writings*, vol. iii., pp. 3-67. See also Hamilton's letters to Mifflin and Lee, in his *Works*, vol. v., pp. 1-11, 16-26, 38-42 (ed. 1851); Adams,

When the time arrived for the meeting of Congress, November 3, 1794, there were not sufficient members of the Senate present to form a quorum, nor did that number arrive before the 18th. The next day Washington addressed the House in a longer speech than usual, laying particular stress on the insurrection in Pennsylvania and telling of the measures taken to suppress it.* He said that the promptitude with which the citizens had supported the government demonstrated that they understood the true principles of government and liberty, and that, notwithstanding all the devices which have been used to sway them from their interest and duty, they are now as ready to maintain the authority of the law against licentious invasions as they were to defend their rights against usurpation. While he highly praised the militia, he said also —

"To every description of citizens let praise be given. But let them persevere in their affectionate vigilance over that precious depository of American happiness, the Constitution of the United States. Let them cherish it too, for the sake of those, who, from every clime, are daily seeking a dwelling in our land. And when, in the calm moments of reflection, they shall have retraced the origin and progress of the insurrection, let them determine whether it has not been fomented by combinations of men, who, careless of consequences, and disregarding the unerring truth, that those who rouse cannot always appease a civil convulsion, have disseminated, from an igno-

Gallatin, pp. 86-89, 91-93, 98, 123-141; Fisher, *Pennsylvania, Colony and Commonwealth*; Hildreth, vol. iv., pp. 373, 499; Albach, *Western Annals*, p. 687.

* Richardson, *Messages and Papers*, vol. i., pp. 162-168.

rance or perversion of facts, suspicions, jealousies, and accusations of the whole Government." *

The President then urged that Congress make an entire revision of the militia system, mentioning the progress of the army under Wayne and the state of Indian affairs. He again called attention to the fact that a plan for redeeming the public debt should be devised. "The time," said he, "which has elapsed since the commencement of our fiscal measures has developed our pecuniary resources so as to open a way for a definite plan for the redemption of the public debt. It is believed that the result is such as to encourage Congress to consummate this work without delay. Nothing can more promote the permanent welfare of the nation, and nothing would be more grateful to our constituents." Regarding intercourse with foreign nations, he said:

"It may not be unreasonable to announce that my policy in our foreign transactions has been to cultivate peace with all the world; to observe treaties with pure and inviolate faith; to check every deviation from the line of impartiality; to explain what may have been misapprehended, and correct what may have been injurious to any nation; and having thus acquired the right, to lose no time in acquiring the ability to insist upon justice being done to ourselves."

* Jefferson berates this "denunciation" of the democratic societies as a most extraordinary act of boldness, and says: "It is wonderful indeed, that the president should have permitted himself to be the organ of such an attack on the freedom of discussion, the freedom of writing, printing, and publishing." Tucker states that Jefferson indulged himself in very free censure, and even ridicule, of the President's speech.—*Life of Jefferson*, vol. i., pp. 488-489.

After hearing the speech, both Houses proceeded to frame answers to it, and for more than a week the debates in the House were devoted to this subject. It was evident in both branches of Congress that the Republican party had less strength than it had displayed in the preceding session. The Senate, in its answer, approved the President's policy regarding foreign nations as well as his conduct in suppressing the whiskey rebellion. "Our anxiety," it said, "arising from the licentious and open resistance of the laws in the western counties of Pennsylvania, has been increased by proceedings of certain self-created societies relative to the laws and administration of the government; proceedings, in our apprehension, founded in political error, calculated, if not intended, to disorganize our Government, and which, by inspiring delusive hopes of support, have been influential in misleading our fellow-citizens in the scene of insurrection." * No objection was made to the President's foreign policy as a whole, but the clause respecting democratic societies was warmly debated, though the answer as reported by the committee was adopted without modification. The House was silent with respect to the self-created societies, to General Wayne's success, and to the foreign policy of the President. It was impossible to carry either a direct cen-

* Richardson, *Messages and Papers*, vol. i., p. 168.

sure of the societies or an approbation of the foreign policy of the President. Thus, after an animated debate, the opposition party triumphed.*

This triumph over the administration momentarily revived the drooping energies of these turbulent societies, but the part played by them in fomenting insurrection in Pennsylvania had lost public support, and, in addition, they received a blow from a quarter where hostility was least expected. The remnant of the French convention had finally succeeded in bringing Robespierre to the guillotine, thus terminating his reign of terror. The colossal powers of the clubs declined, and, with the dissolution of the Jacobin clubs in France, their democratic prototypes in America began to lose influence. The political extinction of the former was the unerring signal for that of the latter.†

But there were other reasons for their decline, the chief of which was the attack made in a series of pamphlets by Peter Porcupine (whose real name was William Cobbett), the most able, sarcastic and entertaining pamphleteer of that time in America. In 1794 Joseph Priestly, the chemist, had arrived in America, having come from England to avoid outrages at the hands of English mobs and insolence and injustice at the hands of English officials. Upon his arrival in

America, he was received with wild demonstrations of hatred toward England; addresses were presented him by the Democratic Society, the Tammany Society, and the Associated Teachers, the Republican natives of England and Ireland overwhelming him with their attention.* This aroused the indignation of Peter Porcupine, who wrote a pamphlet, entitled *Observations on the Emigration of Doctor Joseph Priestly, by Peter Porcupine*, in which he made severe strictures on these doings.† This pamphlet attracted the notice of the Federalists, and Porcupine was encouraged to continue in the same vein, with the result that he quickly produced some half dozen pamphlets assailing the follies and inconsistencies of the Democrats.‡

But though the Republicans were glad to see emigrants of the stamp of Priestly come to this country, there were others whom they dreaded to see enter American portals. There

* McMaster, vol. ii., pp. 206-208.

† Priestly answered him in his *Letters to the Inhabitants of Northumberland*.

‡ Parton, *Life of Thomas Jefferson*, pp. 496-500. See also Edward Smith, *William Cobbett, a Biography* (London, 1878), and the paper upon it in H. C. Lodge's *Studies in History*, p. 110. Some of Cobbett's chief American writings appear in J. M. and J. P. Cobbett's ed. of *Selections from Cobbett's Political Works, being an Abridgment of the Writings of Porcupine*, etc. (6 vols., London, 1835-48). See also *Peter Porcupine's Works, exhibiting a faithful picture of the United States of America, their Government, Laws, Politics, Resources, Presidents, Governors, Legislators, Customs, Manners, Morals, Religion, Virtues, Vices, etc.*, * * * *from the End of the War in 1783 to 1801* (12 vols., London, 1801).

* For the debate in the House on the answer to the President's speech, see Benton, *Abridgment of Debates*, vol. i., pp. 532-541. See also McMaster, vol. ii., pp. 204-206.

† Marshall, *Life of Washington*, vol. ii., p. 353.

were the so-called aristocrats of Europe, who held titles and ribbons, had associated with princes and kings, and were familiar with courts and palaces. The Republicans feared that these aristocrats, of whom a large number had recently come into the country, would enter politics and destroy the Republic; for, under the naturalization law as it then stood, it was only necessary, in order for an emigrant to become a citizen, that he should reside here two years, go into court, show a good character, and swear to support the Constitution. In December, 1794, the whole matter was debated in Congress, when a bill was introduced to amend the naturalization law of 1790. The real discussion did not take place before January 1, 1795, on which day a bill was introduced providing that aliens bearing any titles or orders of nobility applying for citizenship, must renounce such pedigrees before being naturalized.*

The Northern members opposed this, saying that there were many French noblemen in the United States who had fought for American independence, and that it was not fair to compel them to renounce their titles. They thought, furthermore, that the effect of the amendment would be to brand as aristocrats all who opposed it, and to add political prestige to those Republicans who supported it. In their anger, the Northern members brought in an amendment providing

that an alien, when he renounced his title, should also renounce his right to become a slave owner. After a long debate on the subject, the first resolution was adopted by a vote of 59 to 32, but the latter amendment was rejected by a vote of 63 to 28. As approved by the President on January 29, 1795, the act provided that an alien must have lived in this country five years, must have declared his desire for citizenship three years previously, must have spent one year in the State in which he would be naturalized, and must renounce all titles and allegiance to his former country.*

Congress now took under consideration the various matters submitted to them by the President, the most important of which was the redemption of the public debt. The chief obstacle in the way of accomplishing this object was the fact that new taxes were a never-failing source of discontent. The duty on imported articles and on tonnage was insufficient to meet the expenditures of the government, and no surplus was provided to redeem the principal of the debt. It became necessary, therefore, to find additional sources of revenue. On January 16 and 21, 1795, Hamilton submitted a plan to the House for supporting public credit, and on February 2, submitted a supplementary report for increasing the revenue.†

He proposed that the sinking fund

* *Ibid.*, vol. ii., pp. 210-212.

† These plans will be found in *American State Papers, Finance*, vol. i., pp. 320-347, 348-350.

* McMaster, vol. ii., pp. 208-209.

be increased by adding to the duties on imports and tonnage, on spirits distilled in the United States, and on the stills, the dividends derived from the bank stock, the proceeds from the sale of public lands, and the interest of the money which should be redeemed, together with all surplus in the revenues remaining at the end of each fiscal year, provided such surpluses should be expended for specific purposes by Congress. This fund was to be applied to the payment of the 6 per cent. and deferred stock, and continue until it should be redeemed. After such redemption, the same fund was to be applied to the redemption of the foreign and domestic debt, funded and unfunded. The faith of the nation was to be pledged to the creditors that this fund would be inviolably applied to the payment of the debts until completely discharged, and for this purpose the fund was to be vested in the commissioners of the sinking fund, as "property in trust." Hamilton pointed out the great importance of this, saying:

"There is no sentiment which can better deserve the serious attention of the legislators of a country, than the one expressed in the speech of the President, which indicates the danger to every government, from the progressive accumulation of debt. A tendency to it is, perhaps, *the natural disease* of all governments; and it is not easy to conceive any thing, more likely than this, to lead to great and convulsive revolutions of empires. On the one hand, the exigencies of a nation creating new causes of expenditure, as well from its own, as from the ambition, rapacity, injustice, intemperance, and folly of other nations, proceed in increasing and rapid succession. On the other, there is a general propensity in those who ad-

minister the affairs of government, founded in the constitution of man, to shift off the burden from the present to a future day—a propensity, which may be expected to be strong in proportion as the form of a State is popular." *

The difficulties arising from this propensity in a Republican government are set forth by Mr. Hamilton as follows:

"To extinguish a debt which exists, and to avoid contracting more, are ideas always favored by public feeling and opinion; but to pay taxes for the one or the other purpose, which are the only means to avoid the evil, is always more or less unpopular. These contradictions are in human nature; and happy indeed would be the lot of a country that should ever want men ready to turn them to the account of their own popularity, or to some other sinister account. Hence it is no uncommon spectacle, to see the same man clamoring for occasions of expense, when they happen to be in unison with the present humor of the community, whether well or ill directed; declaiming against a public debt, and for the reduction of it as an abstract thesis; yet vehement against every plan of taxation, which is proposed to discharge old debts or to avoid new, by defraying the expenses of exigencies as they emerge." †

The act was finally passed during the same session, substantially in accord with the plan suggested by the Secretary, though Congress was divided on the question of pledging the internal duties. The funds appropriated for the redemption of the debt were vested in the commissioners of the sinking fund in trust, and the faith of the United States was pledged that these funds would be appropriated to the object in view, until the entire debt was paid. The funds were to be applied to the payment of

* *American State Papers, Finance*, p. 331.

† *Ibid.*, vol. i., p. 331.

8 per cent. per annum on account of the principal and interest of the 6 per cent. and deferred stock, and the surplus to the payment of other debts. At this time the total amount of the unredeemed debt, including the assumed debt, was \$76,096,468.17. The select committee recommended additional objects for internal taxation and also that the temporary duties already imposed should be made permanent. This was strongly opposed, and it was not until late in February that the bill passed through the exertions of the Federalists. It was approved by the President March 3, 1795.

Meanwhile, on the last day of January, Hamilton resigned his position as Secretary of the Treasury, and on February 2 Oliver Wolcott was appointed his successor.* A month previous, General Knox had retired and was succeeded by Timothy Pickering. While Hamilton filled the office of Secretary of the Treasury, "the principles that divided the two parties were more inseparably connected with the financial than with any other acts of the government. State sovereignty, or national sovereignty, was bound up in each successive measure. The assumption of a debt, the erection of a bank, the imposition of a tax

involved questions of infinite political moment; and it was only when these should be fully established, that the treasury could take its natural level in point of importance. The erection of a fiscal system in the face of so violent and powerful opposition, of such conflicting interests and inveterate prejudices, and of the obstacles which an imperfect knowledge of our resources and erroneous opinions on financial subjects offered, required a union of qualities rarely found. It had not been, therefore, merely as the head of a department that Hamilton's talents were required or exercised. He had brought to bear the whole of his vast mental resources and political influence upon every fundamental maxim of government. On every subject he had been a counsellor, to whose opinion weight was attached, both by the president and the nation, and he had become, as it were, identified with the principles of the federal party."*

* Gibbs, *Administrations of Washington and Adams*, vol. i., pp. 172-73. For other tributes see Marshall, *Life of Washington*, vol. ii., pp. 356-358; Bolles, *Financial History*, chap. ix. *Per contra*, the preface of Jefferson's *Anas* may be consulted. He charges distinctly upon Hamilton the being "not only a monarchist, but for a monarchy bottomed on corruption." Hamilton wanted, he says, a "hereditary king, with a house of lords and commons, corrupted to his will, and standing between him and the people."—Jefferson's *Works*, vol. ix., pp. 95-97.

* Schouler, *United States*, vol. i., p. 301 *et seq.*



LECTURES
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OF THE
UNITED STATES

Delivered by JAMES H. HANLEY, M.D.,
of the University of California, Berkeley

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SERIES EIGHT

LECTURES TWENTY-SEVEN (Part 2) TO THIRTY-FOUR

The Federalist System: Development of Democracy, 1789--1801

(Continued)

27. Foreign Relations and Internal Affairs (Part 2)
28. Beginning of the Anti-Slavery Struggle
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31. The Alien and Sedition Laws
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34. Political and Internal Affairs

CHAPTER VIII.

1794-1795.

FOREIGN AFFAIRS: THE JAY TREATY.

Jay's treaty with England — Its provisions — Objections to the treaty — Extra session of Senate to ratify it — Treaty made public by Mason — Protest of Boston and Washington's answer — Treatment of Hamilton and Jay — The views of Washington — Fauchet and Randolph — Newspaper attacks — "The Defence, by Camillus" — Other pamphlets — Washington's message regarding the British treaty — The debate in the House — Washington's refusal to submit papers — Ratification of the treaty. Appendix to Chapter VIII. Text of the Jay Treaty.

Immediately after Congress adjourned in March, 1795, news arrived that on November 19, 1794, a treaty of amity, commerce and navigation between the United States and Great Britain had been signed.* A copy of the treaty was received by the Secretary of State on March 7, 1795, and without delay the President devoted himself to earnest consideration of its contents. He was in some doubt in respect to its ratification, but finally reached the conclusion that it was the best obtainable.†

We have spoken previously of Jay's appointment to a special mission to England, and of the critical circumstances under which he entered upon his task. Arriving at London about the middle of June, 1794, Jay immediately opened negotiations with Lord Grenville, who had been commissioned by the king to treat with the

American envoy.* Jay's instructions were of a positive nature. He was to demand compensation for the British spoiliations of American commerce and to insist that provisions were not to be considered as contraband of war, save when an attempt were made to carry them to a place actually besieged. He was to demand the immediate surrender of the frontier posts and to stipulate that the Americans be compensated for the slaves carried off by the British in violation of the treaty. When these matters were satisfactorily adjusted, Jay was to conclude a commercial treaty on the basis of reciprocity in navigation and trade regulations. Should he be unable to reach an amicable agreement regarding the matters just mentioned, he was to drop negotiations and report to the home government for further instructions.† The commissioners of both nations were de-

* Lodge, *George Washington*, vol. ii., p. 176 et seq.

† Irving, *Life of Washington*, vol. v., pp. 240-241.

* Pellew, *John Jay*, pp. 300-301.

† His instructions and the diplomatic correspondence are in *American State Papers, Foreign*

sirous to conclude a treaty which would be perfectly acceptable to their respective governments, and therefore negotiations proceeded rapidly. When the treaty was signed, Jay wrote to Washington that "to do more was impossible. I ought not to conceal from you that the confidence reposed in your personal character was visible throughout the negotiations." *

The principal provisions of the treaty† were as follows:

The preamble stated that the two governments were desirous "to terminate their differences in such a manner, as, without reference to the merits of their respective complaints and pretensions, may be the best calculated to produce mutual satisfaction and good understanding;" etc. The British government was to withdraw its troops and garrisons from the western posts before June 1, 1796, and in the meantime, all settlers and

traders within the jurisdiction of such posts were to be protected therein and to enjoy their property unmolested. Article III. provided that both parties might freely trade with the Indians in their respective territories in America, with the exception of the country "within the limits of the Hudson's Bay Company." The River Mississippi was to be opened to both parties. The United States agreed, where full compensation for losses and damages sustained by British merchants could not be obtained by reason of legal impediments being placed in their way for collecting debts due them by American merchants, to make "full and complete compensation for the same to said creditors." These claims were to be adjudicated by five commissioners, whose awards were to be final "both as to the justice of the claim and to the amount of the sum to be paid to the creditor or claimant." By Article VII. Great Britain was to make compensation to American merchants for "losses and damage by reason of irregular captures or condemnation of their vessels and their property under color of authority or commissions from his Majesty," such claims to be adjudicated by five commissioners. Article IX. provided that British subjects holding lands in the territory of the United States, or American citizens holding lands in British dominions, should continue to hold them according to the nature and tenure of their respective estates and titles

Relations, vol. i., pp. 470-520; *Annals of Congress*, 4th Congress, 1st session, App., pp. 2374-2503. For some of Randolph's letters, see Conway, *Edmund Randolph*, p. 227 *et seq.*

* On the negotiations, see *American State Papers, Foreign Relations*, vol. i., p. 476 *et seq.*; Jay, *Life of John Jay*, vol. i., pp. 322-340; Pel-
lew, *John Jay*, p. 301 *et seq.*

† The text will be found in *Statutes-at-Large*, vol. viii., pp. 116-129; *Annals of Congress*, 4th Congress, App., pp. 2504-2519; *Revised Statutes relating to the District of Columbia* (ed. 1875), pp. 269-282; *American State Papers, Foreign Relations*, vol. i., pp. 520-525; MacDonald, *Select Documents*, pp. 114-130; Snow, *Treaties and Topics in American Diplomacy*, pp. 68-73; *Treaties and Conventions of the United States with Foreign Powers*, pp. 379-395. See also Appendix i. at the end of the present chapter.

therein. Article X. stipulated that debts due from individuals of one nation to individuals of the other should not be sequestered or confiscated. Article XII. permitted direct trade between the United States and the British West Indies, but restrained the United States from carrying molasses, sugar, coffee, cocoa or cotton either from the islands or from the United States to any part of the world; nor could merchandise of the growth, manufacture, or produce of the States or of the Islands be transported in American vessels of more than 70 tons. (This article was suspended, however, by the resolution of the Senate advising ratification, and its suspension was accepted by Great Britain.) Reciprocal and perfect liberty of commerce and navigation between the United States and British dominions in Europe was bespoken, neither to be subject to higher duties than prevailed with other nations, save that the British government reserved the right to countervail American foreign duties. American vessels were to be admitted freely into the ports of the British East Indies, but not to carry on a coasting trade there. Prizes made by ships of war and privateers belonging to either party could enter and depart from the ports of the other without molestation; and no shelter or refuge was allowed to vessels preying upon subjects or citizens of the parties involved in this treaty. Jay was unable, however, to obtain a stipulation that

free ships should make free goods, and hence the question of contraband was not definitely decided, remaining, as heretofore, a matter to be determined by the existing law of nations. In the original draft of the treaty prepared by Jay and submitted to Lord Grenville was also the following article: "It is agreed that if it should unfortunately happen that Great Britain and the United States should be at war, there shall be no privateers commissioned by them against each other." But this provision was not adopted. Jay was convinced that the treaty he had concluded was the best obtainable and believed it to be for the best interests of the United States to accept it.

Thus, it will be seen, the only grievance that the treaty promised to terminate was England's occupancy of American territory. Yet, what guarantee was there that England would withdraw on or before June 1, 1796, when a similar provision incorporated in the treaty of 1783 had not been complied with? Moreover, no compensation was allowed for losses sustained by the United States by the previous detention of the posts. Beside such provisions as were odious to all Americans regardless of political affiliations, there were some that were particularly offensive to the French partisans. For the terms of the Jay treaty rendered the French interpretation of the treaties between France and the United States impossible to the latter. For instance, France

maintained that she had the right to fit out privateers and sell prizes in American ports, whereas the Jay treaty provided (Art. XXIV.) that it should not be lawful "for any foreign privateers * * * who have commissions from any other Prince or State in enmity with either nation to arm their ships in the ports of either of the said parties, nor to sell what they have taken, nor in any other manner to exchange the same," and Article XXIII. provided that "the ships of war of each of the contracting parties shall, at all times, be hospitably received in the ports of the other," and that (Art. XXV.) "it shall be lawful for the ships of war and privateers belonging to the said parties respectively to carry whithersoever they please the ships and goods taken from their enemies," and sell them there. Again, France had maintained that by her treaties she could furnish Americans with commissions against England, but Jay's treaty provided (Art. XXI.) "that the subjects and citizens of the two nations shall not do any acts of hostility or violence against each other, nor accept commissions or instructions so to act for any foreign Prince or State, enemies to the other party; nor shall the enemies of one of the parties be permitted to invite, or endeavor to enlist in their military service, any of the subjects or citizens of the other party," and the subject or citizen who had such a commission or letter of marque could be punished "as a

pirate." Though the Jay treaty expressly provided (Art. XXV.) that "nothing in this treaty shall be construed or operate contrary to former and existing public treaties with other sovereigns and states," what satisfaction was this to the French partisans when the Federalist interpretation of the treaties with France would prevail?

There were several other clauses in the Jay treaty displeasing to the Republicans. Jay had been instructed to open to the United States a direct trade with the West Indies, but by Article XII. of the treaty that trade was limited to vessels of 70 tons or less; and, while British ships of any tonnage were to be admitted to American ports for West Indian commerce, the United States was restrained from carrying molasses, sugar, coffee, cocoa or cotton, either from the islands or from the United States, to any part of the world. The British conceded (Art. XIII.) free trade with the British East Indies "in all articles of which the importation or exportation, respectively, to or from the said territories, shall not be entirely prohibited." But, in return for this concession, it was agreed (Art. XV.) that "no other or higher duties shall be paid by the ships or merchandise of the one party in the ports of the other than such as are paid by the like vessels or merchandise of all other nations. Nor shall any other or higher duty be imposed in one country on the importation of any articles

the growth, produce, or manufacture of the other, than are or shall be payable on the importation of the like articles being the growth, produce, or manufacture of any other foreign country." Thus the United States was restrained from showing any special favors to any country in return for similar concessions from such country unless the same favor be extended also to England, no matter whether she did or did not reciprocate. Thus this country was bound to submit to any insults to which England might subject it, — or go to war.

The last article is perhaps the most extraordinary of them all, for it provided "that the first ten articles of this treaty shall be permanent and that the subsequent articles, except the twelfth, shall be limited in their duration to twelve years, * * * but subject to this condition, that whereas, the said twelfth article will expire by the limitation contained therein, at the end of two years from the signing of the preliminary or other articles of peace, which shall terminate the present war in which his Majesty is engaged, it is agreed that proper measures shall by concert be taken for bringing the subject of that article into amicable treaty and discussion so early before the expiration of the said term as that new arrangements on that head may by that time be perfected and ready to take place." But if no arrangements should be made, "*all the articles in this treaty*

except the first two, shall then cease and expire together." Thus, as Gordy says: "It seemed as though England proposed to compel the United States to accept such conditions relating to the West India trade as she saw fit to impose by withdrawing the meagre advantages conferred by the other commercial articles if this country did not consent to them."*

Hence, when it became known that Jay had signed a treaty by which England could still impress American seamen and compel them to fight against France; which, in fact, compelled us to aid England in her attempt to starve out the country that had helped us gain our freedom from this very

* Gordy, *Political History*, p. 244. Schouler says: "No rational interpretation of such a treaty can leave a doubt in candid minds that the United States government, having plain grievances against King George, and plain opportunities for annoyance, yielded all the favors in her power to bestow, for the sake of getting these grievances redressed for the first time, and redressed only just far enough to obviate the necessity of immediate war. Jay, who represented the injured country, though honorable and patriotic, had always been a timid negotiator on America's behalf; and in this mission he was so painfully conscious that a dangerous contest of arms would follow his failure to make terms with the aggressor, that he most likely encouraged the less scrupulous statesman, who treated with him, to turn the opportunity to England's best account, by obtaining all the commercial advantages for the European struggle she wished from us, without undergoing the humiliation of asking for them, thus paring the claws of a neutral who had angrily threatened to use them, while pretending that the British lion was submitting to that operation. It is probable that Jay could not have gained more for his country; but it is certain that he might have surrendered less, and so given an equally pacific exit to his mission."—*United States*, vol. i., pp. 308-309.

England; which gave England the right to confiscate French goods in American ships, while denying the right of France to seize English goods in American ships; by which England could prevent Americans from trading with French colonial ports; and which provided no compensation for negroes carried away by the British at the close of the Revolution; when these facts became known, it is not strange that thousands of Americans flew into a violent rage and denounced the Federalists as British courtiers. Even Madison felt impelled to exclaim:

"Indeed, the treaty from one end to the other must be regarded as a demonstration that the party to which the envoy belongs * * * is a British party, systematically aiming at an exclusive connection with the British government, and ready to sacrifice to that object as well the dearest interests of our commerce as the most sacred dictates of national honor. This is the true key to this unparalleled proceeding, and can alone explain it to the impartial and discerning part of the public."*

John Quincy Adams said:

"The treaty is far from being satisfactory either to Mr. Jay or Mr. Pinckney. It is far below the standard which would be advantageous to the country. It is probable, however, the negotiators will consent to it, as it is, in their opinion, preferable to a war. The satisfaction proposed to be made to the United States for the recent depredations on their commerce, the principle object of Jay's mission, is provided for in as ample a manner as we could expect. The delivery of the posts is protracted to a more distant day than is desirable. But, I think, the compensation made for the present and future detention of them will be a sufficient equivalent. * * * As a treaty of commerce it will be indeed of little

use to us, and we shall never obtain anything more favorable so long as the principles of the navigation act are obstinately adhered to by Great Britain."*

As it was necessary under the Constitution that all treaties be ratified by the Senate, Washington summoned that body to meet in special session on June 8, when the treaty and the documents connected with it were submitted for consideration.† Washington himself was not quite satisfied with the treaty‡ and had hoped that something more favorable might be negotiated. Nevertheless, as it was important that the United States remain at peace with all nations, the President decided to sign the treaty if the Senate ratified it.¶ The treaty was under consideration in the Senate for more than two weeks, and, with the exception of the twelfth article, was finally ratified, the President being advised to sign the treaty by a vote of 20 to 10. The twelfth article seemed so objectionable that it was suspended, and, with this reservation and a recommendation of further friendly negotiations on the subject of impressment, the Jay treaty was declared satisfactory; and on the 26th the Senate adjourned.§

* Quincy, *Memoir of John Quincy Adams*, pp. 13-14.

† Richardson, *Messages and Papers*, vol. i., pp. 587, 178.

‡ Bassett, *Federalist System*, p. 129.

¶ Lodge, *George Washington*, vol. ii., p. 181; Schouler, *United States*, vol. i., p. 309.

§ McMaster, vol. ii., pp. 215-216. The proceedings in the Senate are in *Annals of Congress*, 3d Congress, 2d session, pp. 854-868.

* Madison's *Works* (Congress ed.), vol. ii., p. 45; Rives, *Life and Times of James Madison*, vol. iii., p. 511.

There was considerable doubt in Washington's mind as to the course proper for him to pursue now that the Senate had only conditionally ratified the treaty. While he was hesitating, he received word that the British government, profiting by the present scarcity of provisions in France, whither nearly all the grain harvest of the United States was destined, had renewed the offensive order of June, 1793, for seizing provision vessels. This led him to question seriously whether he should ratify the treaty before the British government had given satisfactory explanation as to the question of seizures,* for an immediate ratification on his part might be interpreted as a virtual surrender of the American contention — a contention not without strong support from international jurists — regarding a delicate issue which the treaty itself did not decide.† He instructed Randolph to prepare a strong memorial on this matter, reserving his decision until his return from Mount Vernon, whither he was then compelled to go on private business.‡ On July 3 he wrote to Hamilton requesting his opinion of the treaty, saying that he wanted “the favorable and unfavorable side of each article stated and compared together.”|| Hamilton objected to the

West India article and to that which left England free to treat provisions as contraband of war, but advised that the treaty be ratified, as it closed “as reasonably as could be expected the controverted points between the two countries,” adding that he thought we should remonstrate against the provisions of the above-mentioned articles, and that Pinckney should be instructed to withhold final ratification until Great Britain withdrew the obnoxious provisions. Randolph thought the President should refuse to sign the treaty until the provision order was repealed, and the other members of the Cabinet agreed that a remonstrance on this subject should be sent to Great Britain. Randolph was instructed to prepare this remonstrance while Washington was absent at Mount Vernon.*

Meanwhile, on June 29, the substance of the treaty had appeared in the *Aurora*, a Philadelphia paper, someone having made a copy of the treaty from memory and sent it to Benjamin F. Bache. On June 30 the *American Daily Advertiser* copied this sketch, but, as the sketch in the *Aurora* was imperfect, one of the Virginia Senators, Stevens T. Mason, decided that the paper should have a true copy, and accordingly sent his official copy to Bache, who, on July 1, published it in pamphlet form, adver-

* Sparks, *Life of Washington*, pp. 464-465.

† Schouler, *United States*, vol. i., p. 310.

‡ Irving, *Life of Washington*, vol. v., pp. 244-245; Lodge, *George Washington*, vol. ii., p. 182.

|| Hamilton, *History of the Republic*, vol. vi., p. 228.

* Schouler, *United States*, vol. i., pp. 311-312.

tising it in the *Aurora*.* The following day, without the authority of the executive, the *American Daily Advertiser* printed the full text of the treaty, but without any of the accompanying official documents.† Jay's mission had been severely condemned in advance, and it can be imagined what were the feelings of the country when its actual results became known. At this time Great Britain was hated and reviled, while France was adored by a large and powerful party, who "from one end of the Union to the other exclaimed with one voice that the treaty had tamely and basely surrendered the honor, rights and interests of the United States at the feet of their most deadly enemy."‡

The publication of the treaty aroused intense enthusiasm among the Republicans. The pamphlets containing the text, being sent broadcast over the land, provoked much discussion.|| In Boston particularly hatred

for Great Britain was extreme, and the appearance of an Englishman invariably provoked some insult or other. On July 8 the selectmen of Boston summoned a meeting of the town people at Faneuil Hall to consider the treaty. This meeting was held on the 10th and was attended by upward of 1,500 men. When a vote was taken to ascertain whether the citizens of the town approved of the treaty, not a hand was raised in the affirmative—the meeting was unanimous in condemning it. A committee of 15 was therefore chosen to draft an address to Washington and a list of 20 objections was drawn up and sent to him.* To this remonstrance Washington answered as follows:

in the steps of the other Cities by an unanimous address to the President. * * * How far the other Towns and Counties will imitate Richmond is uncertain. If they should be silent, it will assuredly be the effect, in the former, of a supposed notoriety of their harmony in opposition; and in the latter, to the same cause, added to the dispersed situation of the people. I think it is certain that there is not a Town or County in this State, except, perhaps, Alexandria, where an appeal to the inhabitants would be attended with any show of opposition. * * * With respect to the President, his situation must be a most delicate one for himself as well as for his Country; and there never was, as you observe, a crisis where the friends of both ought to feel more solicitude, or less reserve. At the same time, I have reasons, which I think good, for doubting the propriety, and of course utility, of uninvited communications from myself. He cannot, I am persuaded, be a stranger to my opinion on the merits of the Treaty; and I am equally persuaded that the state of the public opinion within my sphere of information will sufficiently force itself on his attention."—*Madison's Works* (Congress ed.), vol. ii., p. 46. For Madison's objections to the treaty, see *ibid.*, pp. 46–59.

* McMaster, vol. ii., pp. 216–218.

* Conway, *Edmund Randolph*, p. 295. See also Hunt, *Life of Madison*, p. 228.

† McMaster, vol. ii., p. 216; Lodge, vol. ii., pp. 182–183.

‡ John Beckley wrote to Madison about this time as follows: "You can have no idea how deeply the public confidence is withdrawing itself from the President, and with what avidity strictures on his conduct are received; sensible of this, his friends are redoubling their efforts to exalt his name and exaggerate his past services. But all in vain, the vital blow aimed at the Independence & best interests of his country by the impending treaty, mark him in indelible characters as the head of a British faction, and gratitude no longer blinds the public mind." See Hunt, *Life of James Madison*, p. 230.

|| Writing to Robert R. Livingston, August 10, 1795, Madison says: "You will see by the Newspapers that the City of Richmond has trodden

"TO THE SELECTMEN OF THE TOWN OF BOSTON.
UNITED STATES, 28th July, 1795.

"GENTLEMEN: In every act of my administration I have sought the happiness of my fellow-citizens. My system for the attainment of this object has uniformly been to overlook all personal, local, and partial considerations; to contemplate the United States as one great whole; to consider that sudden impressions, when erroneous, would yield to candid reflection; and to consult only the substantial and permanent interests of our country.

"Nor have I departed from this line of conduct on the occasion which has produced the resolutions contained in your letter of the 13th inst.

"Without a predilection for my own judgment, I have weighed with attention every argument which has at any time been brought into view. But the Constitution is the guide which I never can abandon. It has assigned to the President the power of making treaties with the advice and consent of the Senate. It was doubtless supposed that these two branches of government would combine, without passion and with the best means of information, those facts and principles upon which the success of our foreign relations will always depend; that they ought not to substitute for their own conviction the opinions of others, or to seek truth through any channel but that of a temperate and well informed investigation.

"Under this persuasion, I have resolved on the manner of executing the duty before me. To the high responsibility attached to it, I fully submit; and you, gentlemen, are at liberty to make these sentiments known as the ground of my procedure. While I feel the most lively gratitude for the many instances of approbation from my country, I can no otherwise deserve it than by obeying the dictates of my conscience.

"With due respect, I am, gentlemen, your obedient

GEORGE WASHINGTON."*

* See Sparks, *Life of Washington*, pp. 465-466; Sparks' ed. of *Washington's Writings*, vol. xi., p. 2; Lodge, *George Washington*, vol. ii., pp. 186-187. "The ratification of Jay's treaty," as J. Q. Adams forcibly says, "brought on the severest trial which the character of Washington, and the fortunes of our nation have ever passed through. No period of the war of independence, no other emergency of our history since its close, nor even the ordeal of establishing the Constitution of

Meanwhile news of the Faneuil Hall meeting reached New York and created no little excitement. A call was inserted in the newspapers for a town meeting to be held at Federal Hall, Saturday, July 16, and when that day arrived a huge crowd gathered in front of the hall. On the night before, Rufus King and Alexander Hamilton had drawn up an address to the people, and when the meeting assembled Hamilton began to address the crowd. But the people cut short his speech with calls for a chairman, and, before Hamilton would be allowed to continue, William Smith was elected to that post. Peter Livingston then attempted to speak, but Hamilton broke in and appealed to the chairman, who in turn referred the matter to the meeting. The crowd decided in favor of Livingston and immediately disorder set in. Finally Livingston made himself heard and demanded a vote on the treaty, requesting those who favored it to go to the left and those who opposed it to the right. A large crowd went to the

the United States itself, has convulsed to its inmost fibres, the political association of the North American people with such excruciating agonies, as the consummation and fulfilment of this great national composition of the conflicting rights, interests, and pretensions of our country and of Great Britain. The party strife in which it originated, and to which it gave birth, is not yet appeased. From this trial, Washington himself, his fame, the peace, union, and prosperity of his country, have issued triumphant and secure. But it prepared the way for the reversal of some of the principles of his administration, and for the introduction of another and widely different system six years after, in the person of Thomas Jefferson."—*Jubilee of the Constitution*, p. 97.

left; but, as many stood their ground, Hamilton urged a full and free disension. It was said that the time for discussion was past and a decision must be made at once. It was suggested that the street was no place for debate, and the crowd was requested to adjourn to a nearby church where Hamilton's arguments could be reviewed. A large party of those who opposed the treaty, now finding the meeting in disorder, went to the Battery and there burned copies of the treaty. On their return, they stoned Hamilton and threw the meeting into still greater confusion.* After remarking, "If you use such striking arguments, I must retire," Hamilton left the meeting,† and a committee of 15 was chosen to draft a set of resolutions condemning the treaty. On the 20th the adjourned meeting again assembled and received and approved twenty-eight long reasons for condemning the work of Mr. Jay.‡

The Republicans now hurled all manner of insults at the British flag and at Jay, who was accused of selling his country for British gold. The toasts drunk were offered to the eternal damnation of Jay and his treaty, the Society of Cincinnati at New-castle, Delaware, expressing the hope that Jay might enjoy all the pleasures

of purgatory. A rude transparency of Jay was carried through the streets of Philadelphia. This transparency bore a figure of Jay in his long robe of the Chief-Justiceship; his right hand held a balance, one scale of which, inscribed "American liberty and independence," kicked the beam, while "British gold" bore down the other. With his left hand he extended the treaty scroll to a group of Senators. From his mouth came the words "Come up to my price, and I will sell you my country!"† In the evening this effigy was burned at Kensington amid the shouts of the people. At Savannah, Georgia, an effigy of Jay was hung up and burned on the gallows on the Old South Commons. At Charleston, South Carolina, all flags were placed at half mast, copies of the treaty were burned by the hangmen near the Old Market in Broad Street, and later a mob dragged the British flag through the streets and burned it in front of the English consul's house.‡ John Rutledge made himself conspicuous by a violent harangue, in which he charged Jay with being either a fool or a knave.

* It is related that about the inclosure of Robert Treat Paine the following words were chalked in large white letters: "Damn John Jay! Damn every one that won't damn John Jay!! Damn every one that won't put lights in his windows and sit up all night damning John Jay!!!"—Pel-lew, *John Jay*, pp. 315-316. See also D. S. Alexander, *Political History of the State of New York*, vol. i., p. 65 (1906).

† Schouler, *United States*, vol. i., p. 311; Loring, *Field-Book of the War of 1812*, p. 57.

‡ McMaster, vol. ii., pp. 222-224.

* Lamb, *City of New York*, vol. ii., pp. 411-412; Lodge, *George Washington*, vol. ii., p. 184; Sumner, *Life of Alexander Hamilton*, p. 216.

† Lodge, *Alexander Hamilton*, p. 190.

‡ McMaster, vol. ii., pp. 218-221.

Considering that Rutledge had just been nominated Chief Justice to succeed Jay, this was certainly strange language. Doubts were raised as to his sanity, and his injudicious speech eventually resulted in his rejection by the Senate—a mortification which Rutledge did not long survive.* At Philadelphia a meeting was held on July 23 at which the treaty was denounced and a committee of 15 appointed to draft a memorial to the President. On the 25th the meeting reconvened, nearly 6,000 men being present, and, after being read paragraph by paragraph, the memorial was almost unanimously adopted. The chairman then recommended “that every good citizen in this assembly kick this damned treaty to hell.” Copies of it were burned before the house of the British minister and consul.† Similar proceedings took place elsewhere.‡ “Torrents of vituperation were poured forth; Catos and other great names of ancient days again appeared upon earth, lamenting the degeneracy of their country, and showing by statistical calculations the amount of

sacrifices and degradations it sustained; inflamed patriots addressed inflammable crowds in every section of the country.”* Addresses, resolutions, and memorials poured in upon Washington from Portsmouth, Boston, New York, Philadelphia and York, Baltimore, Richmond, Charleston, Savannah, Petersburg, Powhattan, and Norfolk, Va., Washington, Del., Bordentown, Flemington, Crosswicks, Reckless Town, and Blackhouse, N. J., and from Morris County and Trenton in the same State. However, the Chamber of Commerce of New York and Boston declared for the treaty, and a paper bearing the signatures of 70 Trenton citizens was sent to the President, urging that it be ratified.† Opposition was not confined to ordinary citizens, however, for among the opponents of the treaty were many who had been ardent advocates of the adoption of the Constitution, the proclamation of neutrality, etc., the number including Jefferson and Madison, Samuel

* Schouler, *United States*, vol. i., p. 311.

† McMaster, vol. ii., pp. 224–225.

‡ Lossing quotes a Richmond paper of July 31, 1795, as follows: “Notice is hereby given that in case the treaty entered into by that damned arch-traitor, John Jay, with the British tyrant should be ratified, a petition will be presented to the next General Assembly of Virginia at the next session, praying that the said state may secede from the Union, and be under the government of one hundred thousand free and independent Virginians.”—*Field-Book of the War of 1812*, p. 87, note.

* Jefferson says: “So general a burst of dissatisfaction never before appeared against any transaction. Those who understand the particular articles of it, condemn these articles. Those who do not understand them minutely condemn it generally as wearing a hostile face to France. This last is a most numerous class, comprehending the whole body of the people, who have taken a greater interest in this transaction than they were ever known to do in any other.”—Letter of September 5, 1795, to James Monroe, in Ford’s ed. of *Jefferson’s Writings*, vol. vii., p. 27. See also his letter to Monroe, p. 58.

† McMaster, vol. ii., p. 225 *et seq.*; Ford’s ed. of *Jefferson’s Writings*, vol. vii., pp. 27, 29. See also Madison’s letters in *Madison’s Works* (Congress ed.), vol. ii., pp. 43, 65.

Adams of Massachusetts, Cæsar A. Rodney and John Dickinson, of Delaware, George Wythe, of Virginia, Charles C. Pinckney and John Rutledge, of South Carolina, and others of equal calibre.*

That Washington viewed these events with deep anxiety cannot be doubted, for he was not a man to underrate popular feeling. Writing to Randolph on July 29, he said:

"I view the opposition which the treaty is receiving from the meetings in different parts of the Union in a very serious light; not because there is more weight in any of the objections which are made to it than was foreseen at first, for there is none in some of them, and gross misrepresentations in others; nor as it respects myself personally, for this shall have no influence on my conduct, plainly perceiving, and I am accordingly preparing my mind for it, the obloquy which disappointment and malice are collecting to heap upon me. But I am alarmed at the effect it may have on, and the advantage the French government may be disposed to make of, the spirit which is at work to cherish a belief in them that the treaty is calculated to favor Great Britain at their expense. * * * To sum the whole up in a few words I have never, since I have been in the administration of the government, seen a crisis which, in my judgment, has been so pregnant with interesting events, whether viewed on one side or the other."†

Again, in writing to Randolph two days later, he said:

"To be wise and temperate, as well as firm, the present crisis most eminently calls for. There is too much reason to believe, from the pains which have been taken before, at, and since the advice of the Senate respecting the treaty, that the prejudices against it are more extensive than is generally imagined. This I have lately understood to be the case in this quarter from men

who are of no party, but well disposed to the present administration. Nor should it be otherwise, when no stone has been left unturned that could impress on the minds of the people the most arrant misrepresentation of facts; that their rights have not only been neglected but absolutely sold; that there are no reciprocal advantages in the treaty; that the benefits are all on the side of Great Britain; and, what seems to have had more weight with them than all the rest, and to have been most pressed, that the treaty is made with the design to oppress the French, in open violation of our treaty with that nation, and contrary, too, to every principle of gratitude and sound policy. In time, when passion shall have yielded to sober reason, the current may possibly turn; but, in the meanwhile, this government, in relation to France and England, may be compared to a ship between the rocks of Scylla and Charybdis. If this treaty is ratified, partisans of the French, or rather of war and confusion, will excite them to hostile measures; if it is not, there is no foreseeing all the consequences which may follow, as it respects Great Britain.

"It is not to be inferred from hence, that I am disposed to quit the ground I have taken, unless circumstances more imperious than have yet come to my knowledge, should compel it; for there is but one straight course, and that is to seek truth, and pursue it steadily. But these things are mentioned to show that a close investigation of the subject is more than ever necessary, and that there are strong evidences of the necessity of the most circumspect conduct in carrying the determination of government into effect, with prudence, as it respects our own people, and with every exertion to produce a change for the better from Great Britain.

"The memorial seems well designed to answer the end proposed, and by the time it is revised and new-addressed, you will probably (either in the resolutions which are or will be handed to me, or in the newspaper publications, which you promise to be attentive to) have seen all the objections against the treaty which have any real force in them, and which may be fit subjects for representation in a memorial, or in the instructions, or both. But how much longer the presentation of the memorial can be delayed without exciting unpleasant sensations here, or involving serious evils elsewhere, you, who are at the scene of information and action, can decide better than I. In a matter, however, so interesting, and pregnant with consequences as this treaty, there

* Gordy, *Political History*, vol. i., pp. 248-249.

† Lodge, *George Washington*, vol. ii., pp. 188-189; Sparks' ed. of *Washington's Writings*, vol. xi., p. 48.

ought to be no precipitation; but on the contrary, every step should be explored before it is taken, and every word weighed before it is uttered or delivered in writing.”*

But on July 28 occurred an incident which had great influence in determining Washington's course, regarding the treaty. Fauchet, the French minister, had prepared an account of the Whiskey Insurrection for his government and dispatched it to the home foreign secretary, but the vessel carrying the dispatches was captured by the British, the dispatches being turned over to Lord Grenville. The latter sent them to the British minister in America, who, on July 28, 1795, gave them to Oliver Wolcott, Secretary of the Treasury.† Perceiving their importance, Wolcott consulted with the Secretary of War Pickering and Attorney-General William Bradford, and all three then waited on Secretary of State Randolph to request him to urge Washington's return to Philadelphia.‡ On receiving this request,|| Washington at once returned, and on August 11 rode into the city. A few hours later Fauchet's letter was placed before him. Fauchet remarked that Ran-

dolph had made many “precious confessions” regarding conditions in this country.* According to Fauchet, Randolph had said that the shameful system of finance had raised up a coterie of financiers who aspired to become the aristocratic class of America, but the people would not stand for it and had organized into a powerful political party seeking not only to throw off oppressive taxes, but also to change the government's attitude toward France and to halt its imbecility and humility before Great Britain. Fauchet said he inferred from Randolph's utterances that the government itself had hastened the breaking out of the Whiskey Insurrection in order to obscure other more vital issues. In his dispatch No. 3, Fauchet wrote:

“Thus the Secretary of State appeared to open himself without reserve. He imparted to me intestine divisions which were rumbling in the United States. The idea of an approaching commotion affected him deeply. He hoped to prevent it by the ascendancy which he daily acquired over the mind of the President who consulted him in all affairs, and to whom he told the truth, which his colleagues disguised from him. The President of the United States says he, is the mortal enemy of England and the friend of France. * * * He has—but it is impossible for me in conscience to make to you this confession. I should betray the duties of my office. Everything which I can say to you is, that it is important for our two nations that you continue to visit him frequently. * * * Let us unite, M. Fauchet, to draw our two nations together.”

Fauchet's dispatch No. 10 was dated October 31, 1794, and was

* Lodge, *George Washington*, vol. ii., pp. 189-191; Sparks' ed. of *Washington's Writings*, vol. xi., p. 51.

† Foster, *Century of American Diplomacy*, p. 162.

‡ Lodge, *George Washington*, vol. ii., pp. 191-193. See also Wolcott's letter quoted in Conway, *Edmund Randolph*, pp. 270-271.

|| He had also received a very enigmatical letter from Pickering requesting him to return, for which see Irving, *Life of Washington*, vol. v., pp. 249-250; Conway, p. 282.

* See the various excerpts from the dispatches in Irving, *Life of Washington*, vol. v., p. 251. See also F. J. Turner, in *Report of American Historical Association*, for 1903, pp. 411, 444.

mainly a tirade upon American politics, setting forth his ideas of what he considered to be the designs of Hamilton and his party, to which, he said, Washington, the honest patriot, was blind. In a strain of disgust, he then proceeds:

"Two or three days before the proclamation [to the whiskey insurrectionists] was published, and of course before the Cabinet had resolved on its measures, Mr. Randolph came to see me with an air of great eagerness, and made to me the overtures of which I have given an account in my No. 6. Thus with some thousands of dollars, the republic could have decided on civil war or on peace! Thus the consciences of the pretended patriots of America have already their prices [which was due to Hamilton, who had turned the people into stock-jobbers and speculators]. It is very true that the certainty of these conclusions, painful to be drawn, will forever exist in our archives."

An extract of dispatch No. 6 above referred to was later furnished by Adet. In this, Fauchet said:

"Scarcely was the commotion known, when the Secretary of State came to my house. All his countenance was grief. He requested of me a private conversation. 'It is all over,' he said to me. 'A civil war is about to ravage our unhappy country. Four men, by their talents, their influence, and their energy, may save it. But, debtors of British merchants, they will be deprived of their liberty if they take the smallest step. Could you lend them instantaneously funds sufficient to shelter them from English persecution?'"

Fauchet subsequently sent a circumstantial letter, quite out of harmony with the broader insinuations of his official dispatches, in which he explained that the details of Randolph's interview given in dispatch No. 6 merely related to the rescue of the United States from civil war by

three or four influential flour contractors who, by procuring information proving that England had interfered in the Western troubles, could avert a civil war. Fauchet further stated that he was shocked to learn that Randolph requested France to advance these flour merchants money due on their contracts, so as to put them in funds against British persecutions to which they would be liable if their revelations should become known. He pretended to be the more surprised at this proposition as he had supposed the American government was able to procure such information at its own expense. He admitted, however, that he may have misunderstood Randolph's propositions.*

Washington therefore decided that the time had come when the signing of the Jay treaty could be delayed no longer. He consulted with the members of the Cabinet, and, as all with the exception of the Secretary of State, advised the act, he signed the treaty.† In speaking of the treaty, Sparks says: "Time disappointed its enemies, and more than fulfilled the expectations of its friends. It saved the country from a war, improved its commerce, and served in no small degree to lay the foundation of its durable prosperity. The great points, which were said to be sacrificed or neglected, the impressment of seamen, neutral rights, and colonial trade,

* Schouler, *United States*, vol. i., p. 314.

† Sparks, *Life of Washington*, p. 467; Lodge, *George Washington*, vol. ii., pp. 194-195.

have never yet been settled, and are never likely to be settled satisfactorily, while England maintains the ascendancy she now holds on the ocean.”* On the other hand, Jefferson denounced the treaty as “an execrable thing.” Writing to Governor Edward Rutledge, of South Carolina, on November 30, 1795, he says: “I trust the popular branch of our legislature will disapprove of it, and thus rid us of this infamous act, which is really nothing more than a treaty of alliance between England and the Anglomen of this country against the legislature and people.” †

On August 19 Washington apprised Randolph of the fact that the Fauchet letters had become known to him and the other members of the Cabinet, and asked him for an explanation. After a few rambling remarks, Randolph said that he would “throw his ideas on paper,” upon which he was asked to leave the room. After three-quarters of an hour of waiting, he was requested to put what he had to say in writing, and on the same day he resigned,‡ — at the same time utterly denying in writing that any money had been received by him or that he had made any such money overtures as the letters seemed to imply.¶ The vacant post was then

offered to Patrick Henry, who, from private considerations, declined it. The position of Secretary of State was next offered to Mr. King, General C. C. Pinckney, William Patterson, of New Jersey, Thomas Johnson, of Maryland, and others but all declined. Finally, in December, Pickering, who was temporarily in charge of the Department, was formally appointed. The War portfolio, after being declined by Edward Carrington, of Virginia, and Colonel Howard, of Maryland, was accepted by James McHenry, of Maryland. In August Mr. Bradford's death created a vacancy in the Attorney-Generalship. After the post had been declined by General Marshall and Colonel Inness, it was filled in December by the appointment of Charles Lee, of Virginia. Thus, for the first time, the Cabinet became wholly Federalist.*

Meanwhile, professing indignation at the withdrawal of his chief's personal confidence, Randolph promised to pursue the inquiry and prepare his explanation at length, asking in the meantime that the dispatch be kept secret. Washington's response was courteous and considerate. Randolph then hastened to find Fauchet, who had been superseded by Adet and was preparing to return to France. He hurried to Newport, where he arrived August 31 and requested that Fauchet explain the language of the dis-

* *Life of Washington*, pp. 467-468.

† Ford's ed. of *Jefferson's Writings*, vol. vii., p. 40.

‡ Gibbs, *Administrations of Washington and Adams*, vol. i., pp. 241-246; Bassett, *Federalist System*, p. 132.

¶ Schouler, *United States*, vol. i., pp. 313-314.

* Sparks, *Life of Washington*, p. 469; Henry, *Life of Patrick Henry*, vol. iii., p. 553 *et seq.*; Schouler, *United States*, vol. i., pp. 316-317.

patches. Fauchet promised to give this explanation on the next day, but when Randolph called at his house at the appointed time he found that Fauchet had fled to a French vessel in the harbor, which had slipped her cables early in the morning and was then far out at sea. A swift vessel sent in pursuit brought back the reply that Adet would send the papers, which in time did come and from which Randolph subsequently constructed his *Vindication*.* Washington informed Randolph that he was at liberty to publish any confidential letters or conversations that had passed between them from which he could derive any advantage. The Secretary's *Appeal to the People*, however, failed to vindicate

him in their eyes; it was an effort to evade the main charge by shifting the issue while the Jay excitement ran high, so as to convict the President of either weakness or duplicity in signing the treaty, and to draw sympathy to himself as the victim of a British plot to accomplish the destruction of the Republican party and to endanger the liberties of the country. Madison said: "His greatest enemies will not easily persuade themselves that he was not under a corrupt influence of France, and his best friends cannot save him from the self-condemnation of his political career."*

The papers, however, still teemed with savage attacks upon the work of Mr. Jay, and letters and pamphlets were issued in defence of the treaty. Some of these were signed by Roman names, such as Cato, Atticus, Cinna, Decius, Cassius, Valerius, Camillus, etc., while other pseudonyms were Americanus, The Constitutionalist, The Federalist, The Sentinel, etc., most of the writers preferring anonymity. It was known, however, that Camillus was Alexander Hamilton; Cato, Robert R. Livingston; and Decius, Brockholst Livingston.† When it became known that Washington had at last signed the treaty,

* See Gibbs, *Administrations of Washington and Adams*, vol. i., pp. 232-280; Sparks, *Life of Washington*, pp. 468-469; Irving, *Life of Washington*, vol. v., p. 252 *et seq.*; McMaster, vol. ii., pp. 233-235. Randolph then retired to Virginia where he resumed the practice of law, but his public career was blighted and his memory bore the stain of the accusation until his vindication was presented by Moncure D. Conway in an article *A Suppressed Statesman*, in *Lippincott's Magazine* (vol. xi., p. 429, September, 1887) and in a biography by the same author entitled *Omitted Chapters of History Disclosed in the Life and Papers of Edmund Randolph*, chaps. xxiii.-xxiv. See, however, Lodge's opinion of this vindication in his *George Washington*, vol. ii., pp. 193-198. Randolph's vindication did not satisfy the Federalists. Trescot (*Diplomatic History*, pp. 159-161) says that the misconstruction of Randolph's conduct has not received historical sanction, and charges Gibbs with malicious ingenuity in what he says of the matter. Randolph's pamphlet gave rise to Cobbett's *Observations on Randolph's Vindication* (Philadelphia, 1796) and *Political Truth: An Inquiry into the Charges against Mr. Randolph* (Philadelphia, 1796).

* See Schouler, *United States*, vol. i., pp. 314-316.

† McMaster, vol. ii., p. 245; Lodge, *Alexander Hamilton*, pp. 191-192. For Hamilton's first objections, see Gibbs, *Administrations of Washington and Adams*, vol. i., pp. 223-224; for his later views, see his *Works*, vol. vii., pp. 169-528 (ed. 1851).

the Republican journals broke out into tirades of abuse, the *Aurora* accusing him even of having violated the Constitution and of having entered into a treaty which was abhorrent to the people of the United States. This journal went so far as to say that even Louis XVI. had never had the courage to heap such insults upon his subjects as Washington had heaped upon the American people by concluding a disgraceful treaty with a nation which the majority of the people heartily despised.* One man (presumably John Beckley, clerk of the House) ventured even to accuse the President of being a thief, cowardly signing himself "A Calm Observer." He had searched the Treasury Department records and discovered what he considered to be evidences of peculation on Washington's part. During his first term Washington had drawn \$5,150 over and above his salary allowed by law, much of which had been repaid, but in March of 1793 a balance of \$1,037 still stood against him. In the meantime Congress decided that the President's salary should be paid

quarterly, and during the first quarter after this had become the custom, Washington had drawn \$11,000, an excess of \$4,750 over his allowance. "Calm Observer" therefore claimed that the President was drawing \$44,000 a year, instead of \$25,000 according to law.* So vile and common did the attacks on Washington become that it came to be regarded as a passport to popular favor to oppose the President.†

But the press was teeming also with all kinds of replies—coarse, spiteful, and serious,—the best and most influential of which was *The Defence, by Camillus* (Hamilton).‡ He laid stress on the facts that the treaty had been denounced before it was known and that, as first published, the text was inaccurate. He explained its merits and defended what were considered its defects, declaring that the United States had sacrificed nothing while obtaining privileges which no other nation had been able to secure from Great Britain; that no existing treaties were violated; and that no dishonorable restrictions were laid.|| Peter Porcupine also entered the lists in behalf of the treaty, issu-

* Gordy, *Political History*, vol. i., p. 251. The most extensive collection of divergent criticism on the treaty was published in 1795 by Matthew Carey, as *The American Remembrancer; or, An Impartial Collection of Essays, Resolves, Speeches, etc., relative, or having affinity, to the Treaty with Great Britain* (3 vols., Philadelphia). See also the *Features of Jay's Treaty*, in *Life and Writings of A. J. Dallas*, p. 51. For a view of its effect, see F. A. Ogg, *Jay's Treaty and the Slavery Interests of the United States*, in *Annual Report of the American Historical Association for 1901*, vol. i., pp. 273-298.

* For the details of this attack, see Marshall, *Life of Washington*, vol. ii., pp. 370-371.

† McMaster, vol. ii., p. 250.

‡ See Hamilton's *Works*, vol. vii., p. 172 *et seq.*

|| John Adams said that the defence of Camillus was the work of Jay, King, and Hamilton, but was to pass for Hamilton's. Letter of January 31, 1796, *Works*, vol. i., pp. 485-486. See note in McMaster, vol. ii., p. 245. See also J. C. Hamilton, *History of the Republic*, vol. vi., p. 273; Von Holst, *Constitutional and Political History*, vol. i., p. 127.

ing a number of pamphlets, entitled *The Comprehensive Story of a Farmer's Bull, The Democratic Memoirs, The Democratic Principle, A Bone to Gnaw for the Democrats, A Little Plain English Addressed to the People of the United States on the Treaty*, all of which made the Democrats wince. Porcupine was almost as hard on his own party, and members of his own political persuasion had little good to say of him. The Democrats assailed Porcupine with great vindictiveness and issued a large number of pamphlets in reply to his.*

The first session of the Fourth Congress convened on December 7, 1795, and Jonathan Dayton was elected Speaker and John Beckley, Clerk.† The next day Washington

delivered his annual address.* Regarding the British treaty, he said:

"Though not before officially disclosed to the House of Representatives, you, gentlemen, are all apprised that a treaty of amity, commerce, and navigation has been negotiated with Great Britain and that the Senate have advised and consented to its ratification upon a condition which excepts part of one article. Agreeably thereto, and to the best judgment I was able to form of the public interest after full and mature deliberation, I have added my sanction. The result on the part of his Britannic Majesty is unknown. When received, the subject will without delay be placed before Congress."

It was a hard matter for Washington to go before Congress now that the House was no longer Federalist, but contained many of those who had so vilely abused him during the last few months. The reply of the House to the President's speech was made another occasion for insulting him; it was even suggested that the customary reply be omitted and that a committee be sent to assure him that his suggestions would be attended to.† Better counsel prevailed, however, and, after a long debate, the clerk wrote an answer prepared in

* For the arguments contained in these pamphlets, see McMaster, vol. ii., p. 251 *et seq.* Some of the replies were: *A Pill for Porcupine, etc., containing a Vindication of the American, French and Irish Characters against his Scurrilities.* By a Friend to Political Equality, 1796; *A Twig of Birch for a Butting Calf; Congratulatory Epistle to the Redoubtable Peter Porcupine on his "Complete Triumph," etc., a Poem.* By Peter Grievous, Jr., 1796; *A Rub from Snub; or, A Cursory Analytical Epistle, addressed to Peter Porcupine, etc., 1795; The Imposter Detected; or, A Review of Some of the Writings of Peter Porcupine.* By T. Tickletoby; *A Rooster, or, A Check to the Progress of Political Blasphemy, intended as a brief reply to Peter Porcupine, alias Billy Cobler.* By Sim Sansenlotte; *The Vision: A Dialogue between Marat and Peter Porcupine in the Infernal Regions,* 1796. See also James Bowdoin, *Opinions Respecting the Commercial Inter-course between the United States and Great Britain* (Boston, 1797); Oliver Wolcott, *British Influence on the Affairs of the United States Proved and Explained* (Boston, 1804).

† *Annals of Congress*, 4th Congress, 1st session, p. 126.

* Richardson, *Messages and Papers*, vol. i., p. 182 *et seq.*

† *Annals of Congress*, 4th Congress, 1st session, pp. 128-130, 131-132, 134-135, 144-149; Benton, *Abridgment*, vol. i., pp. 606-608. Writing to Jefferson, December 13, 1795, Madison says: "The answer, as it stands to be reported, contains a clause which will put the House of Representatives in a dilemma similar to that forced on the House of Delegates, and I believe will never be swallowed, because it is in part notoriously untrue. It affirms the confidence of his fellow-citizens to be undiminished, which will be denied by many who sincerely wish it to be the case." — Madison's *Works* (Congress ed.), vol. ii., p. 63, also p. 66.

the usual way.* Again on Washington's birthday, February 22, a new affront was offered him. It had been the custom since Washington's first inauguration to take some official notice of the day, but now when the House was asked to adjourn for a half hour for that purpose, the motion was voted down on the plea that it was the duty of the House to legislate for the country, not to pay foolish compliments.† It was in this frame of mind that the House received the Jay treaty.

In February the treaty was returned with the ratification of his Britannic Majesty. The President then issued a proclamation requiring the observance of the treaty, a copy of it being transmitted to each House on March 1.‡ The opposition violently attacked the treaty and those who had negotiated it. On March 2 Edward Livingston, of New York, introduced a resolution|| requesting

the President "to lay before the House a copy of the instructions to the minister of the United States who negotiated the treaty with the king of Great Britain, communicated by his message of the first of March, together with the correspondence, and other documents relative to the said treaty."* Madison offered an amendment asking for only "so much of the said papers as, in the judgment of the President, it may be consistent with the interests of the United States at this time to disclose," but the amendment was voted down.† This immediately brought up the question as to where the treaty-making power was constitutionally lodged, and as to what were the functions of the House under the existing circumstances. For three weeks the discussion continued, Madison, Gallatin, Giles, and others, on the one hand, and Hillhouse, Murray, Tracy, Smith, of South Carolina, and Harper, on the other, exerting their utmost efforts to secure or prevent the passage of Livingston's resolution. In a speech on March 9, Gallatin presented, with great clearness and force, the Republican theory of the treaty clause of the Constitution. He declared that a treaty made by the

* McMaster, vol. ii., pp. 259-260; Schouler, *United States*, vol. i., pp. 321-322.

† McMaster, vol. ii., pp. 260-263.

‡ Richardson, *Messages and Papers*, vol. i., p. 192; *Annals of Congress*, 4th Congress, 1st session, p. 394.

|| For full and exact information on this subject in its various ramifications, the student must consult the *Debates on the Constitutional Powers of the House with Respect to Treaties and upon the British Treaty* (Philadelphia, 1796), the second edition of which was published as *Debates upon Questions Involved in the British Treaty of 1794* (2 vols., Philadelphia, 1808). Senator Benton has presented a fair abstract in his *Abridgment of the Debates of Congress*, vol. i., pp. 639-754. The full debates are in *Annals of Congress*, 4th Congress, 1st session, pp. 426-783 and 970-1291. See also Foster, *Century of American Diplomacy*, pp. 168-169.

* *Annals of Congress*, 4th Congress, 1st session, p. 426; McMaster, vol. ii., p. 266; Lodge, *George Washington*, vol. ii., pp. 203-204; Madison's *Works* (Congress ed.), vol. ii., p. 87.

† Madison to Monroe, April 18, 1796. Madison's *Works* (Congress ed.), vol. ii., p. 96. See also Hunt, *Life of Madison*, p. 231; Stevens, *Albert Gallatin*, pp. 114-115; Gay, *Life of Madison*, p. 226.

President with the advice and consent of the Senate did not become the law of the land until sanctioned by the House of Representatives.* He said:

"To construe the Constitution consistently, we must attend to all the sections of it. If it is attempted to be construed by referring to particular portions, and not attending to the whole, absurdities must arise. * * * By one section it is declared that a treaty is the supreme law of the land, that it operates as a law; yet it is to be made by the President and Senate only. Here will be an apparent contradiction; for the Constitution declares that the legislative power shall be vested in the three branches. By this construction there would appear to be two distinct legislatures. * * * If still it is insisted that treaties are the supreme law of the land, the Constitution and laws are also; and, it may be asked, which shall have the preference? Shall a treaty repeal a law or a law a treaty? Neither can a law repeal a treaty because a treaty is made with the concurrence of another party—a foreign nation—that has no participation in framing the law; nor can a treaty made by the President and Senate repeal a law, because the House of Representatives have a participation in making the law. It is a sound maxim in government that it requires the same power to repeal a law that enacted it. If so, it follows that laws and treaties are not of the same nature [for treaties are not laws and do not become laws until sanctioned by both Houses and Congress]. * * * Gentlemen had dwelt much on that part of the Constitution which declared the Constitution, laws, and treaties [are] laws of the land; but they had avoided reading the whole of the clause and had not given to it its obvious meaning. * * * The clause does not compare a treaty with the law of the United States, or either of them with the Constitution: it only compares all the acts of the Federal Government with the acts of the individual States, and declares that either of the first, whether under name of Constitution, law or treaty, shall be paramount to and supersede the Constitution and laws of the individual States. In that point of view are treaties said to be the supreme law, to wit: when standing in competition against

acts of the several States; but the clause by no means expresses that treaties are equal or superior to the laws of the Union, or that they shall be supreme law, when clashing with any of them." *

The advocates of the treaty claimed, on the other hand, that the Constitution clearly vested in the President, by and with the advice and consent of the Senate, the power to make treaties; and that when a treaty was thus made, it was complete and became obligatory on the United States. To refuse to comply with its stipulations was to break the treaty and to violate the pledged faith of the United States.† After an animated debate, the resolution was adopted on March 24 by a vote of 62 to 37 (absentees 5).‡

When the President received the resolution, he said "that he would take time to consider it." He was in a peculiarly delicate position. The passions of the people were strongly excited against the treaty; in case he should refuse to submit the papers, suspicion would be aroused that during the negotiations circumstances had occurred which the President feared to publish. He was inclined also to yield to the demand of the House by reason of the large majority that favored the resolution.

* *Annals of Congress*, 4th Congress, 1st session, pp. 466-469; Benton, *Abridgment of Debates*, vol. i., pp. 644-645.

† McMaster, vol. ii., p. 267 *et seq.*

‡ *Annals of Congress*, 4th Congress, 1st session, pp. 759-760; Lodge, *George Washington*, vol. ii., p. 204; McMaster, vol. ii., p. 275; Hunt, *Life of Madison*, p. 232; Stevens, *Albert Gallatin*, p. 118.

* See also Schouler, *United States*, vol. i., p. 324.

...in the nature of the duty
a reflection of the charge, as to the execution of
the Treaty, it will find its rule of action in
the Treaty

Even with reference to and
animadversion on the conduct of the Agents who
made the Treaty, the presumption of a criminal
mismanagement of the interests of the U States, ought
not, it is conceived to be deduced from the nature
of the Treaty, and ought to be pronounced to
exist prior to a further inquiry by a court as to
guilt of the guilty.

When the House of Representatives,
proceeding upon any Treaty, shall have taken the ground
that such a presumption exists, on which to
an inquiry, then request to the Executive to be
made to be laid before them papers which
may contain information on the subject with
reference to a foundation that cannot fail to prove
to its due efficacy.

But under all the
circumstances of the present Request, (circumstances
which I feel to be particularly) and in its
present indefensible form, I adopt with
reluctance of regret, but with an
conviction the Opinion, that a just regard
to the Constitution and to the duty of my
office forbids on my part a compliance
with that request —

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But he considered it his duty to act otherwise, and on March 30 sent a message to the House in which he positively refused to accede to the demands for the executive papers.* This message was received with very ill grace by the opposition,† and, on being referred to the Committee of the Whole, was very freely and sharply criticised. On April 7 by a vote of 57 to 35, two resolutions were adopted: first, that the President and Senate had the exclusive power to make treaties, and that the House did not claim many agency in making or ratifying them; and second, that when a treaty had been made, it must depend for the execution of its various articles upon a law or laws to be passed by Congress, the House having the right to deliberate on the expediency or in expediency of carrying treaties into effect.‡

On April 14 the subject of the British treaty was again taken under consideration. The friends of the

treaty urged that the question be decided immediately, for it was said that every member had already made up his mind and that dispatch was necessary inasmuch as the posts were to be delivered by Great Britain on June 1, which transfer required previous arrangements on the part of the United States. They appeared to believe that the majority would hardly dare to accept the responsibility of breaking the treaty without previously ascertaining that the great body of the people were willing to take the consequences of such action. But the opponents of the treaty, though confident of their power to reject the resolution, called for its discussion. The minority soon desisted from urging an immediate decision of the question, and the discussion of the treaty was entered into with equal thoroughness by both parties.* Among those freely discussing the merits and demerits of the treaty and opposing its execution were Madison, Gallatin, Giles, Nicholas, and Preston,† while Fisher Ames, Dwight, Foster, Harper, Lyman, Dayton, and others set forth their weightiest arguments in its favor.

* Richardson. *Messages and Papers*, vol. i., pp. 194-196; *Annals of Congress*, 4th Congress, 1st session, pp. 760-761; *American State Papers, Foreign Relations*, vol. i., pp. 550-551; Sparks, *Life of Washington*, pp. 469-470; Lodge, *George Washington*, vol. ii., pp. 204-206; Irving, *Life of Washington*, vol. v., pp. 267-268. See the opinion of the various members of Washington's first Cabinet regarding this power, in Ford's ed. of *Jefferson's Writings*, vol. i., pp. 189-190.

† Madison said that "the absolute refusal was as unexpected as the tone and tenor of the message are improper and indelicate."—Letter to Jefferson, April 4, 1796. *Madison's Works* (Congress ed.), vol. ii., pp. 89-90. See also pp. 96-97.

‡ *Annals of Congress*, 4th Congress, 1st session, pp. 770-783; Benton, *Abridgment of Debates*, vol. i., pp. 696-702; Stevens, *Albert Gallatin*, p. 119; Hunt, *Life of Madison*, p. 233.

* As Madison said: "The progress of this business throughout has been the most worrying and vexatious that I ever encountered; and the more so, as the causes lay in the unsteadiness, the follies, the perverseness, and the defections among our friends, more than in the strength, or dexterity, or malice of our opponents."—Letter to Jefferson, May 1, 1796. *Madison's Works* (Congress ed.) vol. ii., pp. 99-100. See also Gay, *Life of Madison*, p. 227.

† Stevens, *Albert Gallatin*, p. 121 et seq.

The chief objections were that the treaty lacked reciprocity; that claims for compensation for negroes carried away and for the detention of the western posts were abandoned; that it was wholly in the interests of Great Britain; that it interfered with the legislative powers of Congress, especially by prohibiting the sequestration of debts; that the United States would receive few commercial advantages, etc. Some of the Republicans did not advocate an unconditional refusal to carry the treaty into effect. In defining his position, Gallatin said:

"The further detention of the posts, the national stain that would result from receiving no reparation for the spoliation on our trade, and the uncertainty of a final adjustment of our differences with Great Britain, were the three evils which struck him as resulting from a rejection of the treaty; and when to these considerations he added that of the present situation of the country, of the agitation of the public mind, and of the advantages that would arise from union of sentiments; however injurious and unequal he conceived the treaty to be, however repugnant it might be to his feelings, and perhaps, to his prejudices, he felt induced to vote for it, and would not give his assent to any proposition which would imply its rejection." *

He thought that, considering England's conduct since the negotiation of the treaty, it would be advisable to postpone the enactment of laws carrying the treaty into effect until England should manifest a more friendly spirit toward us. Madison arraigned the treaty in three leading particulars: First, want of reciproc-

ity with reference to the treaty of 1783, since the principal and interest of the British debts were to be paid, while Great Britain did not compensate the United States for carrying off the negroes or detaining the posts, but even hampered the surrender of the posts by keeping her Indian influence on the continent still open; secondly, lack of reciprocity in the neutral and international rules, since we yielded on the sequestration of debts and the principle that free ships make free goods — a principle so desirable to neutral commerce and which all our other treaties have recognized,—while the clauses concerning contraband were even still more disadvantageous; and thirdly, the lack of commercial reciprocity, for, while the Mississippi and Indian trade was to be open to Great Britain, she surrendered no such privileges in the West Indies, and even our rights in the East India trade were doubtful.* Others spoke of the injustice done France and of the possibility of an immense award of the British debt, while, on the other hand, American spoliation might fail altogether.

The advocates of the treaty, on the other hand, contended that, though doubtless not perfectly satisfactory in all respects, the best interests of the country demanded that the treaty be carried into effect. They said that many disputes of long standing, which it was important that the United

* *Annals of Congress*, 4th Congress, 1st session, p. 1196.

* Speech of April 15, *Annals*, pp. 975-987. See also Schouler, *United States*, vol. i., pp. 326-327.

States should bring to a close, were settled by the treaty; that provision was made for settling other disputes of more recent date in which the commercial interests of the country had much at stake; that the rights of France were not abrogated; that the question of contraband, though not settled, was left as before the treaty, etc. Goodhue, from the Salem district, assured the House that the clause relating to the East India trade positively benefited the mercantile community.* Members from the frontier districts of New York asserted, upon their own knowledge, that the Indian traffic, after the actual surrender of the Western posts, would fall principally into American hands. Hillhouse scouted the idea that the American government should reject advantages from one nation for the sake of pleasing another.† The advocates of the treaty asserted also that the sequestration of private debts was contrary to every principle of morality and good faith and ought never to take place; that, should the United States reject the treaty, the only alternative was — war.

It can hardly be doubted, however, that the principal cause of the Federalist opposition to every measure that might lead to war with Great Britain, was the fear that such a war would not only throw their country into the arms of France, but that it

would also place in power in the United States the same anarchical elements that had deluged France with blood. Marshall says:

“That war with Britain, during the continuance of the passionate and almost idolatrous devotion of a great majority of the people to the French republic, would throw America so completely into the arms of France as to leave her no longer mistress of her own conduct, was not the only fear which the temper of the day suggested. That the spirit which triumphed in that nation, and deluged it with the blood of its revolutionary champions, might cross the Atlantic, and desolate the hitherto safe and peaceful dwellings of the American people, was an apprehension not so entirely unsupported by appearances as to be pronounced chimerical. With a blind apprehension which treated reason as a criminal, immense numbers applauded a furious despotism, trampling on every right, and sporting with life as the essence of liberty; and the few who conceived freedom to be a plant which did not flourish the better for being nourished with human blood, and who ventured to disapprove the ravages of the guillotine, were execrated as tools of the coalesced despots, and as persons who, to weaken the affection of America for France, became the calumniators of that republic. Already had an imitative spirit, captivated with the splendor, but copying the errors of a great nation, reared up in every part of the Continent self-created corresponding societies, who, claiming to be the people, assumed a control over the people and were loosening its bands.”

A bare abstract of the debates in Congress can give no idea of the force and eloquence of the speeches delivered on this occasion. Madison and Gallatin were the principal speakers on one side, and ably advocated the Republican views;* but on April 28, just as the debate was closing, Fisher Ames delivered what was undoubtedly the most eloquent of all the speeches.

* *Annals*, pp. 1053-1059.

† *Ibid*, pp. 1077-1094; Benton, *Abridgment*, vol. i., pp. 721-726; Schouler, p. 327.

* Stevens, *Albert Gallatin*, p. 125.

On account of failing health, Ames had hitherto refrained from mingling in the debates—a misfortune the more keenly felt as Tracy, who had been put forward to answer the speeches of Gallatin, had shown too much asperity to make a strong counter-impression and had marred his argument by ill-natured flings at Gallatin's nativity. Against the advice of his physician, Ames determined to speak, and when he arose, pale and feeble, the galleries were crowded with persons eager to hear him. He soon warmed up to his subject. Delicately touching upon French excesses and the commotion which the treaty had excited, deprecating foreign partisanship, and making no attempt to vaunt unduly the merits of the treaty (as other Federalists had done), he earnestly and forcefully pressed home the strongest points in favor of passing the necessary laws. But his greatest outbursts of eloquence came when he depicted the horrors sure to follow a rejection of the treaty. He pictured the new frontier war which the British retention of the posts would provoke—the war-whoop of the Indians, the torture of the victims, the blaze of log-houses. By a vivid imagery of these dreadful scenes and a wonderful pathos of expression, he held his hearers spell-bound. He then said:

"This alone would justify the engagements of the government. For, when the fiery vapors of the war lowered in the skirts of our horizon, all our wishes were concentrated in this one, that we might escape the desolation of the storm.

This treaty, like a rainbow on the edge of the cloud, marked to our eyes the space where it was raging, and afforded, at the same time, the sure prognostic of fair weather. If we reject it, the vivid colors will grow pale, it will be a baleful meteor portending tempest and war. * * *

"In my view, even the minutes I have spent in expostulation, have their value, because they protract the crisis, and the short period in which alone we may resolve to escape it. * * * Yet I have, perhaps, as little personal interest in the event as any one here. There is, I believe, no member who will not think his chances to be a witness of the consequences greater than mine. If, however, the vote should pass to reject, and a spirit should rise, as it will, with the public disorders, to make confusion worse confounded, even I, slender and almost broken as my hold upon life is, may outlive the government and Constitution of my country."

This speech, the pathetic utterances of which were wrung from a suffering heart, had a powerful effect on the members of the House and, fearing the consequences of the great orator's impassioned appeal, adjourned before the question was taken.* The delay occasioned by these debates favored the passage of the treaty. Not only the members of the House, but also the great mass of the people, began to reflect on the serious consequences which would follow its rejection. Numerous petitions were presented to the House from various parts of the Union, urging the ratification of the treaty,† which resulted in changing the opin-

* Parton, *Life of Thomas Jefferson*, pp. 519-520; Schouler, *United States*, vol. i., pp. 328-329. The text will be found in the *Works of Fisher Ames*, pp. 58-93 (ed. 1809); *Annals of Congress*, 4th Congress, 1st session, pp. 1239-1263; Benton, *Abridgment*, vol. i., pp. 743-748.

† *Annals of Congress*, p. 1264; McMaster, vol. ii., p. 281 *et seq.*

ions of a few members.* Finally, on April 29, the question was taken in Committee of the Whole, and was determined in favor of passing the

necessary laws by the casting vote of the Speaker.* On the 30th the resolution was carried in the House by a vote of 51 to 48.†

APPENDIX TO CHAPTER VIII.

PRINCIPAL ARTICLES OF THE JAY TREATY WITH GREAT BRITAIN, 1794.

ARTICLE I.

There shall be a firm, inviolable and universal peace, and a true and sincere friendship between His Britannic Majesty, his heirs and successors, and the United States of America; and between their respective countries, territories, cities, towns and people of every degree, without exception of persons or places.

ARTICLE II.

His Majesty will withdraw all his troops and garrisons from all posts and places within the boundary lines assigned by the treaty of peace to the United States. This evacuation shall take place on or before the first day of June, one thousand and seven hundred and ninety-six, and all the proper measures shall in the interval be taken by concert between the Government of the United States and His Majesty's Governor-General in America, for settling the previous arrangements which may be necessary respecting the delivery of the said posts: The United States in the mean time, at their discretion, extending their settlements to any part within the said boundary line, except within the precincts or jurisdiction of any of the said posts. All settlers and traders, within the precincts or jurisdiction of the said posts, shall continue to enjoy, unmolested, all their property of every kind, and shall be protected

therein. They shall be at full liberty to remain there, or to remove with all or any part of their effects; and it shall also be free to them to sell their lands, houses, or effects, or to retain the property thereof, at their discretion; such of them as shall continue to reside within the said boundary lines, shall not be compelled to become citizens of the United States, or to take any oath of allegiance to the Government thereof; but they shall be at full liberty so to do if they think proper, and they shall make and declare their election within one year after the evacuation aforesaid. And all persons who shall continue there after the expiration of the said year, without having declared their intention of remaining subjects of His Britannic Majesty, shall be considered as having elected to become citizens of the United States.

ARTICLE III.

It is agreed that it shall at all times be free to His Majesty's subjects, and to the citizens of the United States, and also to the Indians dwelling on either side of the said boundary line, freely to pass and repass by land or inland navigation, into the respective territories and countries of the two parties, on the continent of America, (the country within the limits of the Hudson's Bay Company only excepted), and to

* Writing to Monroe May 14, 1796, Madison says: "It [the passage of the treaty] is to be ascribed principally to an appeal to petitions under the mercantile influence and the alarm of war. A circular letter from the Merchants of Philadelphia gave the signal to all the other towns. The people were everywhere called on to chuse between peace and war, and to side with the Treaty if they preferred the former. This stratagem produced in many places a fever, and in New England a delirium, for the Treaty, which soon covered the table with petitions. The counter petitions, though powerful from Philadelphia, and respectable from some other places,

did not keep pace. Indeed, there was not time for distant parts, where the Treaty was odious, to express their sentiments before the occurrence was over. Besides the alarm of war in the *smaller States*, a great excitement was produced in them by the appeal of the President, in his message, to their particular interest in the powers of the Senate."—*Madison's Works* (Congress ed.), vol. ii., p. 102. See also pp. 103–104.

* Hunt, *Life of Madison*, p. 233; McMaster, vol. ii., p. 281.

† *Annals of Congress*, 4th Congress, 1st session, p. 1291; Benton, *Abridgment*, vol. i., pp. 753–754.

navigate all the lakes, rivers, and waters thereof, and freely to carry on trade and commerce with each other. But it is understood that this article does not extend to the admission of vessels of the United States into the sea-ports, harbours, bays, or creeks of His Majesty's said territories; nor into such parts of the rivers in His Majesty's said territories as are between the mouth thereof, and the highest port of entry from the sea, except in small vessels trading bona fide between Montreal and Quebec, under such regulations as shall be established to prevent the possibility of any frauds in this respect. Nor to the admission of British vessels from the sea into the rivers of the United States, beyond the highest ports of entry for foreign vessels from the sea. The river Mississippi shall, however, according to the treaty of peace, be entirely open to both parties; and it is further agreed, that all the ports and places on its eastern side, to whichever of the parties belonging, may freely be resorted to and used by both parties, in as ample a manner as any of the Atlantic ports or places of the United States, or any of the ports or places of His Majesty in Great Britain.

All goods and merchandise whose importation into His Majesty's said territories in America shall not be entirely prohibited, may freely, for the purposes of commerce, be carried into the same in the manner aforesaid, by the citizens of the United States, and such goods and merchandise shall be subject to no higher or other duties than would be payable by His Majesty's subjects on the importation of the same from Europe into the said territories. And in like manner, all goods and merchandise whose importation into the United States shall not be wholly prohibited, may freely, for the purposes of commerce, be carried into the same, in the manner aforesaid, by His Majesty's subjects, and such goods and merchandise shall be subject to no higher or other duties than would be payable by the citizens of the United States on the importation of the same in American vessels into the Atlantic ports of the said States. And all goods not prohibited to be exported from the said territories respectively, may in like manner be carried out of the same by the two parties respectively, paying duty as aforesaid.

No duty of entry shall ever be levied by either party on peltries brought by land or inland navigation into the said territories respectively, nor shall the Indians passing or repassing with their own proper goods and effects of whatever nature, pay for the same any impost or duty whatever. But goods in bales, or other large

packages, unusual among Indians, shall not be considered as goods belonging bona fide to Indians.

No higher or other tolls or rates of ferriage than what are or shall be payable by natives, shall be demanded on either side; and no duties shall be payable on any goods which shall merely be carried over any of the portages or carrying-places on either side, for the purpose of being immediately re-embarked and carried to some other place or places. But as by this stipulation it is only meant to secure to each party a free passage across the portages on both sides, it is agreed that this exemption from duty shall extend only to such goods as are carried in the usual and direct road across the portage, and are not attempted to be in any manner sold or exchanged during their passage across the same, and proper regulations may be established to prevent the possibility of any frauds in this respect.

As this article is intended to render in a great degree the local advantages of each party common to both, and thereby to promote a disposition favorable to friendship and good neighborhood, it is agreed that the respective Governments will mutually promote this amicable intercourse, by causing speedy and impartial justice to be done, and necessary protection to be extended to all who may be concerned therein.

ARTICLE IV.

Whereas it is uncertain whether the river Mississippi extends so far to the northward as to be intersected by a line to be drawn due west from the Lake of the Woods, in the manner mentioned in the treaty of peace between His Majesty and the United States: it is agreed that measures shall be taken in concert between His Majesty's Government in America and the Government of the United States, for making a joint survey of the said river from one degree of latitude below the falls of St. Anthony, to the principal source or sources of the said river, and also of the parts adjacent thereto; and that if, on the result of such survey, it should appear that the said river would not be intersected by such a line as is above mentioned, the two parties will thereupon proceed, by amicable negotiation, to regulate the boundary line in that quarter, as well as all other points to be adjusted between the said parties, according to justice and mutual convenience and in conformity to the intent of the said treaty.

ARTICLE V.

Whereas doubts have arisen what river was truly intended under the name of the river St.

Croix, mentioned in the said treaty of peace, and forming a part of the boundary therein described; that question shall be referred to the final decision of commissioners. * * *

ARTICLE VI.

Whereas it is alleged by divers British merchants and others, His Majesty's subjects, that debts, to a considerable amount, which were bona fide contracted before the peace, still remain owing to them by citizens or inhabitants of the United States, and that by the operation of various lawful impediments since the peace, not only the full recovery of the said debts has been delayed, but also the value and security thereof have been, in several instances, impaired and lessened, so that, by the ordinary course of judicial proceedings, the British creditors cannot now obtain, and actually have and receive full and adequate compensation for the losses and damages which they have thereby sustained: It is agreed, that in all such cases, where full compensation for such losses and damages cannot, for whatever reason, be actually obtained, had and received by the said creditors in the ordinary course of justice, the United States will make full and complete compensation for the same to the said creditors: But it is distinctly understood, that this provision is to extend to such losses only as have been occasioned by the lawful impediments aforesaid, and is not to extend to losses occasioned by such insolvency of the debtors or other causes as would equally have operated to produce such loss, if the said impediments had not existed; nor to such losses or damages as have been occasioned by the manifest delay or negligence, or wilful omission of the claimant.

* * * * *

ARTICLE VII.

Whereas complaints have been made by divers merchants and others, citizens of the United States, that during the course of the war in which His Majesty is now engaged, they have sustained considerable losses and damage, by reason of irregular or illegal captures or condemnations of their vessels and other property, under color of authority or commissions from His Majesty, and that from various circumstances belonging to the said cases, adequate compensation for the losses and damages so sustained cannot now be actually obtained, had, and received by the ordinary course of judicial proceedings; it is agreed, that in all such cases, where adequate compensation cannot, for whatever reason, be now actually obtained, had, and received by the said merchants and

others, in the ordinary course of justice, full and complete compensation for the same will be made by the British Government to the said complainants. But it is distinctly understood that this provision is not to extend to such losses or damages as have been occasioned by the manifest delay or negligence, or wilful omission of the claimant.

* * * * *

And whereas certain merchants and others, His Majesty's subjects, complain that, in the course of the war, they have sustained loss and damage by reason of the capture of their vessels and merchandise, taken within the limits and jurisdiction of the States and brought into the ports of the same, or taken by vessels originally armed in ports of the said States:

It is agreed that in all such cases where restitution shall not have been made agreeably to the tenor of the letter from Mr. Jefferson to Mr. Hammond, dated at Philadelphia, Sept. 5, 1793, a copy of which is annexed to this treaty; the complaints of the parties shall be and hereby are referred to the commissioners to be appointed by virtue of this article, who are hereby authorized and required to proceed in the like manner relative to these as to the other cases committed to them. * * *

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ARTICLE IX.

It is agreed that British subjects who now hold lands in the territories of the United States, and American citizens who now hold lands in the dominions of His Majesty, shall continue to hold them according to the nature and tenure of their respective estates and titles therein; and may grant, sell, or devise the same to whom they please, in like manner as if they were natives; and that neither they nor their heirs or assigns shall, so far as may respect the said lands and the legal remedies incident thereto, be regarded as aliens.

ARTICLE X.

Neither the debts due from individuals of the one nation to individuals of the other, nor shares, nor monies, which they may have in the public funds, or in the public or private banks, shall ever in any event of war or national differences be sequestered or confiscated, it being unjust and impolitic that debts and engagements contracted and made by individuals, having confidence in each other and in their respective Governments, should ever be destroyed or impaired by national authority on account of national differences and discontents.

ARTICLE XI.

It is agreed between His Majesty and the United States of America, that there shall be a reciprocal and entirely perfect liberty of navigation and commerce between their respective people, in the manner, under the limitations, and on the conditions specified in the following articles.

* * * * *

ARTICLE XIII.

His Majesty consents that the vessels belonging to the citizens of the United States of America shall be admitted and hospitably received in all the sea-ports and harbors of the British territories in the East Indies. And that the citizens of the said United States may freely carry on a trade between the said territories and the said United States, in all articles of which the importation or exportation respectively, to or from the said territories, shall not be entirely prohibited. Provided only, that it shall not be lawful for them in any time of war between the British Government and any other Power or State whatever to export from the said territories, without the special permission of the British Government there, any military stores, or naval stores, or rice. The citizens of the United States shall pay for their vessels when admitted into the said ports no other or higher tonnage duty than shall be payable on British vessels when admitted into the ports of the United States. And they shall pay no other or higher duties or charges, on the importation or exportation of the cargoes of the said vessels, than shall be payable on the same articles when imported or exported in British vessels. But it is expressly agreed that the vessels of the United States shall not carry any of the articles exported by them from the said British territories to any port or place, except to some port or place in America, where the same shall be unladen, and such regulations shall be adopted by both parties as shall from time to time be found necessary to enforce the due and faithful observance of this stipulation. It is also understood that the permission granted by this article is not to extend to allow the vessels of the United States to carry on any part of the coasting trade of the said British territories; but vessels going with their original cargoes, or part thereof, from one port of discharge to another, are not to be considered as carrying on the coasting trade. Neither is this article to be construed to allow the citizens of the said States to settle or reside within the said territories, or to go into the interior parts thereof, without the permission of the British Government established there; and if

any transgression should be attempted against the regulations of the British Government in this respect, the observance of the same shall and may be enforced against the citizens of America in the same manner as against British subjects or others transgressing the same rule. And the citizens of the United States, whenever they arrive in any port or harbor in the said territories, or if they should be permitted, in manner aforesaid, to go to any other place therein, shall always be subject to the laws, government, and jurisdiction of what nature established in such harbor, port, or place, according as the same may be. The citizens of the United States may also touch for refreshment at the island of St. Helena, but subject in all respects to such regulations as the British Government may from time to time establish there.

ARTICLE XIV.

There shall be between all the dominions of His Majesty in Europe and the territories of the United States a reciprocal and perfect liberty of commerce and navigation. The people and inhabitants of the two countries, respectively, shall have liberty, freely and securely, and without hindrance and molestation, to come with their ships and cargoes to the lands, countries, cities, ports, places, and rivers within the dominions and territories aforesaid, to enter into the same, to resort there, and to remain and reside there, without any limitation of time. Also to hire and possess houses and warehouses for the purposes of their commerce, and generally the merchants and traders on each side shall enjoy the most complete protection and security for their commerce; but subject always as to what respects this article to the laws and statutes of the two countries respectively.

ARTICLE XV.

It is agreed that no other or higher duties shall be paid by the ships or merchandise of the one party in the ports of the other than such as are paid by the like vessels or merchandise of all other nations. Nor shall any other or higher duty be imposed in one country on the importation of any articles the growth, produce, or manufacture of the other, than are or shall be payable on the importation of the like articles being of the growth, produce, or manufacture of any other foreign country. Nor shall any prohibition be imposed on the exportation or importation of any articles to or from the territories of the two parties respectively, which shall not equally extend to all other nations.

But the British Government reserves to itself the right of imposing on American vessels entering into the British ports in Europe a tonnage duty equal to that which shall be payable by British vessels in the ports of America; and also such duty as may be adequate to countervail the difference of duty now payable on the importation of European and Asiatic goods, when imported into the United States in British or in American vessels.

The two parties agree to treat for the more exact equalization of the duties on the respective navigation of their subjects and people, in such manner as may be most beneficial to the two countries. The arrangements for this purpose shall be made at the same time with those mentioned at the conclusion of the twelfth article of this treaty, and are to be considered as a part thereof. In the interval it is agreed that the United States will not impose any new or additional tonnage duties on British vessels, nor increase the now-subsisting difference between the duties payable on the importation of any articles in British or in American vessels.

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ARTICLE XVII.

It is agreed that in all cases where vessels shall be captured or detained on just suspicion of having on board enemy's property, or of carrying to the enemy any of the articles which are contraband of war, the said vessel shall be brought to the nearest or most convenient port; and if any property of an enemy should be found on board such vessel, that part only which belongs to the enemy shall be made prize, and the vessel shall be at liberty to proceed with the remainder without any impediment. And it is agreed that all proper measures shall be taken to prevent delay in deciding the cases of ships or cargoes so brought in for adjudication, and in the payment or recovery of any indemnification, adjudged or agreed to be paid to the masters or owners of such ships.

ARTICLE XVIII.

In order to regulate what is in future to be esteemed contraband of war, it is agreed that under the said denomination shall be comprised all arms and implements serving for the purposes of war, by land or sea, such as cannon, muskets, mortars, petards, bombs, grenades, carcasses, saucisses, carriages for cannon, musket-rests, bandoliers, gun-powder, match, saltpetre, ball, pikes, swords, head-pieces, cuirasses, halberts, lances, javelins, horse-furniture, holsters, belts, and generally all other

implements of war, as also timber for ship-building, tar or rozin, copper in sheets, sails, hemp, and cordage, and generally whatever may serve directly to the equipment of vessels, unwrought iron and fir planks only excepted; and all the above articles are hereby declared to be just objects of confiscation whenever they are attempted to be carried to an enemy.

And whereas the difficulty of agreeing on the precise cases in which alone provisions and other articles not generally contraband may be regarded as such, renders it expedient to provide against the inconveniences and misunderstandings which might thence arise: It is further agreed that whenever any such articles so becoming contraband, according to the existing laws of nations, shall for that reason be seized, the same shall not be confiscated, but the owners thereof shall be speedily and completely indemnified; and the captors, or, in their default, the Government under whose authority they act, shall pay to the masters or owners of such vessels the full value of all such articles, with a reasonable mercantile profit thereon, together with the freight, and also the demurrage incident to such detention.

And whereas it frequently happens that vessels sail for a port or place belonging to an enemy without knowing that the same is either besieged, blockaded, or invested, it is agreed that every vessel so circumstanced may be turned away from such port or place; but she shall not be detained, nor her cargo, if not contraband, be confiscated, unless after notice she shall again attempt to enter, but she shall be permitted to go to any other port or place she may think proper; nor shall any vessel or goods of either party that may have entered into such port or place before the same was besieged, blockaded, or invested by the other, and be found therein after the reduction or surrender of such place, be liable to confiscation, but shall be restored to the owners or proprietors thereof.

ARTICLE XIX.

And that more abundant care may be taken for the security of the respective subjects and citizens of the contracting parties, and to prevent their suffering injuries by the men-of-war, or privateers of either party, all commanders of ships of war and privateers, and all others the said subjects and citizens, shall forbear doing any damage to those of the other party or committing any outrage against them, and if they act to the contrary they shall be punished, and shall also be bound in their persons and estates to make satisfaction

and reparation for all damages, and the interest thereof, of whatever nature the said damages may be. * * *

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ARTICLE XXI.

It is likewise agreed that the subjects and citizens of the two nations shall not do any acts of hostility or violence against each other, nor accept commissions or instructions so to act from any foreign Prince or State, enemies to the other party; nor shall the enemies of one of the parties be permitted to invite, or endeavor to enlist in their military service, any of the subjects or citizens of the other party; and the laws against all such offences and aggressions shall be punctually executed. And if any subject or citizen of the said parties respectively shall accept any foreign commission or letters of marque for arming any vessel to act as a privateer against the other party, and be taken by the other party, it is hereby declared to be lawful for the said party to treat and punish the said subject or citizen having such commission or letters of marque as a pirate.

ARTICLE XXII.

It is expressly stipulated that neither of the said contracting parties will order or authorize any acts of reprisal against the other, on complaints of injuries or damages, until the said party shall first have presented to the other a statement thereof, verified by competent proof and evidence, and demanded justice and satisfaction, and the same shall either have been refused or unreasonably delayed.

ARTICLE XXIII.

The ships of war of each of the contracting parties shall, at all times, be hospitably received in the ports of the other, their officers and crews paying due respect to the laws and Government of the country. The officers shall be treated with that respect which is due to the commissions which they bear, and if any insult should be offered to them by any of the inhabitants, all offenders in this respect shall be punished as disturbers of the peace and amity between the two countries. And His Majesty consents that in case an American vessel should, by stress of weather, danger from enemies, or other misfortune, be reduced to the necessity of seeking shelter in any of His Majesty's ports, into which such vessel could not in ordinary cases claim to be admitted, she shall, on manifesting that necessity to the satisfaction of the Government of the place, be hos-

pitably received, and be permitted to refit and to purchase at the market price such necessities as she may stand in need of, conformably to such orders and regulations as the Government of the place, having respect to the circumstances of each case, shall prescribe. She shall not be allowed to break bulk or unload her cargo, unless the same should be bona fide necessary to her being refitted. Nor shall be permitted to sell any part of her cargo, unless so much only as may be necessary to defray her expenses, and then not without the express permission of the Government of the place. Nor shall she be obliged to pay any duties whatever, except only on such articles as she may be permitted to sell for the purpose aforesaid.

ARTICLE XXIV.

It shall not be lawful for any foreign privateers (not being subjects or citizens of either of the said parties) who have commissions from any other Prince or State in enmity with either nation to arm their ships in the ports of either of the said parties, nor to sell what they have taken, nor in any other manner to exchange the same; nor shall they be allowed to purchase more provisions than shall be necessary for their going to the nearest port of that Prince or State from whom they obtained their commissions.

ARTICLE XXV.

It shall be lawful for the ships of war and privateers belonging to the said parties respectively to carry whithersoever they please the ships and goods taken from their enemies, without being obliged to pay any fee to the officers of the admiralty, or to any judges whatever; nor shall the said prizes, when they arrive at and enter the ports of the said parties, be detained or seized, neither shall the searchers or other officers of those places visit such prizes, (except for the purpose of preventing the carrying of any part of the cargo thereof on shore in any manner contrary to the established laws of revenue, navigation, or commerce,) nor shall such officers take cognizance of the validity of such prizes; but they shall be at liberty to hoist sail and depart as speedily as may be, and carry their said prizes to the place mentioned in their commissions or patents, which the commanders of the said ships of war or privateers shall be obliged to show. No shelter or refuge shall be given in their ports to such as have made a prize upon the subjects or citizens of either of the said parties; but if forced by stress of weather, or the dangers of the sea, to enter therein, particular care shall be taken to

hasten their departure, and to cause them to retire as soon as possible. Nothing in this treaty contained shall, however, be construed or operate contrary to former and existing public treaties with other sovereigns or States. But the two parties agree that while they continue in amity neither of them will in future make any treaty that shall be inconsistent with this or the preceding article.

Neither of the said parties shall permit the ships or goods belonging to the subjects or citizens of the other to be taken within cannon shot of the coast, nor in any of the bays, ports, or rivers of their territories, by ships of war or others having commission from any Prince, Republic, or State whatever. But in case it should so happen, the party whose territorial rights shall thus have been violated shall use his utmost endeavors to obtain from the offending party full and ample satisfaction for the vessel or vessels so taken, whether the same be vessels of war or merchant vessels.

ARTICLE XXVI.

If at any time a rupture should take place (which God forbid) between His Majesty and the United States, the merchants and others of each of the two nations residing in the dominions of the other shall have the privilege of remaining and continuing their trade, so long as they behave peaceably and commit no offence against the laws; and in case their conduct should render them suspected, and the respective Governments should think proper to order them to remove, the term of twelve months from the publication of the order shall be allowed them for that purpose, to remove with their families, effects, and property, but this favor shall not be extended to those who shall act contrary to the established laws; and for greater certainty, it is declared that such rupture shall not be deemed to exist while negotiations for accommodating differences shall be depending, nor until the respective Ambassadors or Ministers, if such there shall be, shall be recalled or sent home on account of such differences, and not on account of personal misconduct, according to the nature and degrees of which both parties retain their rights, either to request the recall, or immediately to send home the Ambassador or Minister of the other, and that without prejudice to their mutual friendship and good understanding.

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ARTICLE XXVIII.

It is agreed that the first ten articles of this treaty shall be permanent, and that the subsequent articles, except the twelfth, shall be limited in their duration to twelve years, to be computed from the day on which the ratification of this treaty shall be exchanged, but subject to this condition, That whereas the said twelfth article will expire by the limitation therein contained, at the end of two years from the signing of the preliminary or other articles of peace, which shall terminate the present war in which His Majesty is engaged, it is agreed that proper measures shall by concert be taken for bringing the subject of that article into amicable treaty and discussion, so early before the expiration of the said term as that new arrangements on that head may by that time be perfected and ready to take place. But if it should unfortunately happen that His Majesty and the United States should not be able to agree on such new arrangements, in that case all the articles of this treaty, except the first ten, shall then cease and expire together.

Lastly. This treaty, when the same shall have been ratified by His Majesty and by the President of the United States, by and with the advice and consent of their Senate, and the respective ratifications mutually exchanged, shall be binding and obligatory on His Majesty and on the said States, and shall be by them respectively executed and observed with punctuality and the most sincere regard to good faith; and whereas it will be expedient, in order the better to facilitate intercourse and obviate difficulties, that other articles be proposed and added to this treaty, which articles, from want of time and other circumstances, cannot now be perfected, it is agreed that the said parties will, from time to time, readily treat of and concerning such articles, and will sincerely endeavor so to form them as that they may conduce to mutual convenience and tend to promote mutual satisfaction and friendship; and that the said articles, after having been duly ratified, shall be added to and make a part of this treaty. In faith whereof we, the undersigned Ministers Plenipotentiary of His Majesty the King of Great Britain and the United States of America, have signed this present treaty, and have caused to be affixed thereto the seal of our arms.

Done at London this nineteenth day of November, one thousand seven hundred and ninety-four.

GRENVILLE.
JOHN JAY.

CHAPTER IX.

1795-1797.

INTERNAL AFFAIRS: ELECTIONS: WASHINGTON'S FAREWELL.

Washington's message to the Fourth Congress — The various enactments — Washington's Farewell Address — Its reception in various parts of the country — Nomination of candidates for Presidency and Vice-Presidency — Course of the French minister — Washington's last speech to Congress — Election of Adams and Jefferson — Spurious letters of Washington — Washington's farewell — Review of his administration. — Appendix to Chapter IX. Washington's Farewell Address.

The fourth Congress commenced its first session December 7, 1795, and on the 8th, Washington made his seventh annual address. He spoke of the successful termination of the long, expensive and distressing war with the Indians of the Northwest; mentioned the various treaties with Morocco, Algiers and Spain; stated that "a treaty of amity, commerce, and navigation had been negotiated" with Great Britain, that the Senate had advised and consented to its ratification "upon a condition which excepts part of one article," and that he added his sanction. He added, however, that the decision of his Britannic Majesty was as yet unknown. In regard to the internal situation, he said there were "equal causes for contentment and satisfaction"; that the country enjoyed general tranquillity, "the more satisfactory because maintained at the expense of no duty." Our agriculture, commerce, and manufactures prospered beyond precedent, the hin-

drances to our trade being more than balanced by the aggregate benefits which it derived from a neutral position; every part of the Union displayed indications of rapid and numerous improvements; and with burdens so light as scarcely to be perceived, with resources fully adequate to our present exigencies, with a government founded on the genuine principles of national liberty, and with mild and wholesome laws, was it too much to say that our country exhibited "a spectacle of national happiness, never surpassed, if ever before equalled?" Among the subjects to which Washington called the special attention of Congress was the state of the military establishment. To the House of Representatives he said that the provision for redeeming the public debt should be reënforced, for "whatsoever will tend to accelerate the honorable extinction of our public debt, accords as much with the true interest of our country as with the general sense of our constitu-

ents." He suggested that the business of the mint needed attention, as did also the state of the fortifications, arsenals, magazines, etc.* In the Senate, where the Federalists had made considerable gains at the last election, a cordial answer was returned to the President's speech,† but in the House, where the Republicans had increased in strength, the answer to the speech indicated that the course of the new administration would not be smooth.‡

Among the recent enactments were laws regulating the relations of the inhabitants of the western frontier with the Indians, laws authorizing the survey of certain public lands with a view to their sale, laws equalizing the pay of the members of Congress, and laws instituting measures to protect and relieve American citizens. About \$6,000,000 was appropriated to the public service and toward the interest on the public debt; but so many were the demands on the public treasury that, after vainly endeavoring to obtain another loan, part of the bank stock was sold. The opposition party refused to raise further revenue by indirect internal taxation, and the only measure passed to raise revenues was that increasing the duty on pleasure carriages. They were strongly opposed also to the establish-

ment of a naval force. Even the Algerian outrages on American merchant vessels did not force action, and a bill providing a sufficient naval force in the Mediterranean to prevent such piracies could not be carried in the House without the insertion of a section suspending all proceedings under the act, in case the dispute with Algiers was brought to an end. In that event, not a single frigate could be built without further authority from the legislature. No peace had been concluded with Tunis or Tripoli, yet it was with the greatest difficulty that a bill providing for three instead of six frigates was passed. On June 1, this session of Congress was brought to a close.

The Presidential elections were now approaching. Many of Washington's intimate friends were aware of his fixed determination to retire at the end of his present term.* In view of the unsettled condition of foreign affairs, he was urgently entreated to withhold the announcement of his determination to retire until the last moment. His intention to retire, however, could not be changed, and he decided to improve the opportunity to issue a farewell address to his countrymen. Early in September, nearly six months before his term of office expired, he completed the address, and on September 17, 1796, issued it. It gave his views regarding public affairs and the principles

* Richardson, *Messages and Papers*, vol. i., pp. 182-186; *Annals of Congress*, 4th Congress, 1st session, pp. 10-14; Benton, *Abridgment of Debates*, vol. i., pp. 592-593.

† Richardson, vol. i., pp. 186-187.

‡ *Ibid.*, vol. i., pp. 187-188.

* Madison's *Works* (Congress ed.), vol. i., p. 554.

by which he had been governed during his Presidency.* The message was received with profound reverence in many parts of the United States, and many addresses and expressions of regret were sent him by various bodies. "In some of the States, the Farewell Address was printed and published with the laws, by order of the legislatures, as an evidence of the value they attached to its political precepts, and their affection to its author."†

In all parts of the country, however, there were those who denounced Washington as an aristocrat, a monarch, and an Anglomaniac, and who seldom heard his name mentioned without cursing it. Unquestionably the President was not as popular then as he had been in 1789 and 1792. In many quarters the address provoked

replies keyed in all kinds of tones — angry, bitter, and sarcastic.* It was freely charged that he was arbitrary, vain and avaricious, having climbed to fame on the work of others, and simply because he held the highest place, he had laid a tax that raised an insurrection; had burdened the many to enrich the few; had created an American aristocracy; had affronted the nation which aided us to secure independence in favor of the country which endeavored to keep us in bondage; had refused to give representatives of the people treaty papers they had a right to see; and even in his farewell address had warned us against "permanent alliance with any portion of the foreign world," because he had made a treaty which gave great privileges to England, not wishing France and the rest of Europe to enjoy similar concessions.

* Sparks, *Life of Washington*, pp. 474-475; *Annals of Congress*, 4th Congress, 1st session, App., pp. 2869-2880. See also the appendix at the end of this chapter. It is given in Richardson, *Messages and Papers*, vol. i., pp. 213-224; Irving, *Life of Washington*, vol. v., pp. 381-410. Regarding the authorship of the address, see Sparks, App. v., pp. 525-530; Horace Binney, *Inquiry into the Formation of Washington's Farewell Address* (Philadelphia, 1859). See also Sparks' ed. of *Washington's Writings*, vol. xiii., pp. 214, 382; Irving, vol. v., p. 276 *et seq.*; Ford's ed. of *Washington's Writings*, vol. xii., pp. 123-131 and vol. xiii., pp. 220, 221, note, 267, 277-325; Hunt, *Life of Madison*, p. 220; *Memoirs of the Pennsylvania Historical Society*, vol. i.; Sullivan, *Public Men*, pp. 115, 421; Stevens, *James Lenox*, p. 100; Houghton, *American Politics*, p. 112; Cooper and Fenton, *American Politics*, vol. ii., p. 14. Madison's draft will be found in *Madison's Works* (Congress ed.), vol. i., pp. 565-568, and his letter to Jefferson, June 27, 1823, regarding it, in vol. iii., p. 323.

† See also Schouler, *United States*, vol. i., p. 346.

* On the eve of Washington's return to Mount Vernon, the *Aurora* contained the following squib: "Lord now lettest thou thy servant depart in peace, for thine eyes hath seen thy salvation." If ever there was a time that would license the reiteration of the exclamation of the pious Simeon, that time is now arrived; for the man who is the source of all the misfortunes of our country is this day reduced to a level with his fellow citizens, and is no longer possessed of power to multiply evils upon the United States. * * * When a retrospect is taken of Washington's administration for eight years, it is a subject of the greatest astonishment that a single individual could have cankered the principles of republicanism in an enlightened people just emerged from the gulf of despotism, and should have carried his designs against the public liberty so far as to have put in jeopardy its very existence. Such, however, are the facts, and with them staring us in the face, this day ought to be a *JUBILEE* in the United States."

Even after his successor had been elected, it was asserted that Washington knew he could not be again elected to the highest place and, to save himself the shame of being superseded and forced to take the Vice-Presidency, he had to resign.*

That Washington was stung to the quick, is evident; for in a letter to Jefferson, in reply to one in which the latter denied that he had ever committed a breach of official trust while in the cabinet, Washington spoke of the outrageous abuse to which he had been subjected by the press of the opposite party, saying:

"To this I may add, and very truly, that, until the last year or two, I had no conception that parties would, or even could, go to the lengths I have been witness to; nor did I believe until lately, that it was within the bounds of probability, hardly within those of possibility, that while I was using my utmost exertions to establish a national character of our own, independent, as far as our obligations and justice would permit, of every nation of the earth, and wished, by steering a steady course, to preserve this country from the horrors of a desolating war, I should be accused of being the enemy of one nation and subject to the influence of another; and to prove it, that every act of my administration would be tortured, and the grossest and most insidious misrepresentations of them be made, by giving one side only of a subject, and that too in such exaggerated and indecent terms as could scarcely be applied to a Nero, a notorious defaulter, or even to a common pickpocket."†

As Washington had declined to be renominated, the Federalists, after some consideration, united to support John Adams for the Presidency, and Thomas Pinckney for the Vice-Presi-

dency. Thomas Jefferson was the candidate for the Republicans.* There was much political jugglery in the nomination of Adams and Pinckney. Jay had been eliminated as a Presidential possibility by his connection with the memorable treaty. It was clear that Hamilton was now less available than ever as a candidate for any office. Thus the field was clear for John Adams, who had gained much of late in the popular estimation. He had toned down in his style of living, had avoided public controversies, and had not incurred any of the odium attached to the conduct of foreign affairs. Those of the Federalist leaders who had come into close contact with him at the seat of government believed him to be too irritable, too headstrong, and too vigorous in upholding executive independence to make a good leader of the Federalist party; besides, his views on foreign banking, and funding questions did not always coincide with their own. But they could not court an open rupture with Adams, and therefore concocted a scheme whereby they could encompass his defeat. On Hamilton's advice, they adopted the plan of coupling Adams with a popular Southern candidate nominally selected for the Vice-Presidency. After the Federal electors

* For the various arguments used regarding the fitness of the candidates, see McMaster, vol. ii., pp. 291-300. As to Hamilton's course in not supporting Adams, see Lodge, *Alexander Hamilton*, pp. 194-197. See also Bassett, *Federalist System*, pp. 143-144.

* McMaster, vol. ii., pp. 289-291.

† Irving, *Life of Washington*, vol. v., pp. 272-273. See also Schouler, *United States*, vol. i., pp. 343-345.

had been chosen, the Northern electors were to be persuaded to vote equally for the two candidates, so that if the Vice-Presidential candidate could secure a scattered vote in his own section, he could come in first, making the more manageable president. The ostensible reason given by Hamilton and his friends for persuading Federalist electors of the North to cast their votes equally for Adams and Pinckney was, to prevent the elevation of Jefferson to either place.* The struggle was exciting and was watched with great interest, both abroad and at home. In addition to the usual vituperation, a remarkable incident occurred when the French minister, Adet, in order to aid Jefferson's candidacy, attempted to interfere with the elections.†

In June of 1795, when Adet reached America, he was directed to present to the government the flag of the French republic. It was not until January, 1796, however, that this was done, on which occasion, Adet, beside delivering a letter from the Committee of Public Safety to Congress, made an address in which he said:

* Schouler, *United States*, vol. i., pp. 342-343. See also John Adams, *Works*, vol. i., pp. 490-493; Morse, *John Adams*, p. 257 *et seq.*

† The elder Wolcott, one of the most influential of the New England Federalists, declared that, if Jefferson were elected President (which could be brought about only by French intrigue) the Northern States would separate from the Southern and never again form a union with them, save for military purposes.—Gibbs, *Memoir of Wolcott*, vol. i., p. 409. Regarding French influence, see also pp. 401, 492.

"Long accustomed to regard the American people as her most faithful allies, she has sought to draw closer the ties already formed in the fields of America, under the auspices of victory, over the ruins of tyranny. The National Convention, the organ of the will of the French nation, have more than once expressed their sentiments to the American people; but above all, these burst forth on that August day, when the minister of the United States presented to the National Representation the colors of his country. Desiring never to lose recollections as dear to Frenchmen as they must be to Americans, the Convention ordered that these colors should be placed in the hall of their sittings. They had experienced sensations too agreeable not to cause them to be partaken of by their allies, and decreed that to them the national colors should be presented."*

In reply, Washington said:

"Born, sir, in a land of liberty, having early learned its value; having engaged in a perilous conflict to defend it; having, in a word, devoted the best years of my life to secure its permanent establishment in my own country; my anxious recollections, my sympathetic feelings, and my best wishes, are irresistibly attracted, whensoever, in any country, I see an oppressed nation unfurl the banner of freedom. * * * I receive, sir, with lively sensibility, the symbol of the triumphs and of the enfranchisement of your nation, the colors of France, which you have now presented to the United States. The transaction will be announced to Congress, and the colors will be deposited with those archives of the United States, which are at once the evidence of the memorials of their freedom and independence. May these be perpetual, and may the friendship of the two republics be commensurate with their existence."†

The address, together with the letter from the Committee of Safety, and the French colors, were transmitted to Congress on January 4, and both Houses expressed sentiments of friendship for the French nation.

* *Annals of Congress*, 4th Congress, 1st session, pp. 197-198.

† *Ibid.*, pp. 198-199; Benton, *Abridgment*, vol. i., pp. 615-617.

This did not satisfy Adet, however, for he was offended because the French colors were not placed in a conspicuous position in the House of Representatives.* He addressed a note to the President, protesting against this, saying that, as the American flag had been placed in the hall of the French legislative body, the American Congress should accord the French flag the same honor. The Secretary of State replied that it was not customary for the people of the United States to exhibit in their deliberative assemblies "any public spectacles or tokens of their victories, the symbols of their triumphs, or the monuments of their freedom."

Adet had profited by Gênet's experience and had learned that the American government could not be diverted from a settled policy. So he resolved to obtain the same end by different means; he decided to take a hand in the Presidential election then approaching, as we have before related. He wrote numerous letters to the Secretary of State, sending copies of them to be published in the Democratic *Aurora*. The first of these letters, written October 27, 1796, stated that the French government had decreed that she would treat ships of neutrals in precisely the same manner as they allowed themselves to be treated by England. On November 15, 1796, he wrote another letter in which he demanded,

"in the name of American honor, in the name of the faith of treaties, the execution of that contract which assured to the United States their existence, and which France regarded as the pledge of the most sacred union between two peoples, the freest upon earth." He then added: "In a word, the French minister announces to the Secretary of State the resolution of a government terrible to its enemies, but generous to its allies." He contrasted the warmth of France for America and the coldness of America toward France.

"When Europe rose up against the republic at its birth, menaced it with all the horrors of war and famine; when, on every side, the French could not calculate upon any but enemies, their thoughts turned towards America. * * * In America they saw friends. Those who went to brave tempests and death upon the ocean, forgot all dangers in order to indulge the hope of visiting that American continent, where, for the first time, the French colors had been displayed in favor of liberty. Under the guarantee of the law of nations, under the protecting shade of a solemn treaty, they expected to find in the ports of the United States an asylum as sure as at home; they thought, if I might use the expression, there to find a second country. The French government thought as they did. O hope, worthy of a faithful people, how hast thou been deceived! So far from offering the French the succor which friendship might have given without compromising it, the American government, in this respect, violated the faith of treaties."

He then went on to enumerate the alleged violations and asserted that the American government wished to secure to England, by a signed compact, the advantages which had been accorded her by the United States in violation of the treaties with

* Madison to Monroe, January 26, 1796, Madison's Works (Congress ed.), vol. ii., p. 74.

France.* "Such was the object of Mr. Jay's mission; a negotiation enveloped, from its origin, in the shadow of mystery, and covered with the veil of dissimulation. * * * All that could render the neutrality profitable to England and injurious to France, is combined in this treaty." He said that the United States had granted concessions to England which she refused to other nations, and that—

"Having consented to such conditions, the American government cannot pretend to impartiality. * * * The undersigned minister plenipotentiary moreover declares that the Executive Directory regards the treaty of commerce concluded with Great Britain as a violation of the treaty made with France in 1778, and equivalent to a treaty of alliance with Great Britain; and that they have given him orders to suspend from this moment his ministerial functions with the federal government.

"But the cause which has so long restrained the just resentment of the Executive Directory from bursting forth, now tempered its effects. The name of America, notwithstanding the wrongs of its government, still excited sweet sensations in the hearts of Frenchmen; and the Executive Directory wished not to break with a people whom they loved to salute with the appellation of friend."

He said further that the suspension of his functions should not be regarded "as a rupture between France and the United States, but as a mark of just discontent which was to last until the government of the United States returned to sentiments and to measures more conformable to the in-

terests of the alliance, and to the sworn friendship between the two nations." He concluded as follows:

"Oh Americans, covered with noble scars! Oh you who have so often flown to death and to victory with French soldiers! You who know those generous sentiments which distinguish the true warrior! Whose hearts have always vibrated with those of your companions in arms! Consult them to-day to know what they experience; recollect at the same time, that if magnanimous souls with liveliness resent an affront, they also know how to forget one. Let your government return to itself, and you will still find in Frenchmen, faithful friends and generous allies."

Adet overshot the mark, however, for he does not seem to have comprehended the sensitiveness of Americans to outside interference. Instead of aiding the cause of Jefferson, his words had the opposite effect; they only nerved the Federalists to greater exertion to defeat him.*

On December 5, 1796, before the election was decided, Congress assembled.† Two days later, Washing-

* McMaster, vol. ii., pp. 300-302. See also Madison's *Works* (Congress ed.), vol. ii., p. 107; Hildreth, *United States*, vol. iv., pp. 681-685; *American State Papers, Foreign Relations*, vol. i., pp. 580-583.

† On the first day of the session, "a delegate [Andrew Jackson] from the newly-added state of Tennessee appeared, was qualified, and took his seat; one who, young and unknown as he then was, destiny had marked out as the future ruler of the nation, into whose grand council he now came as the first Representative of its youngest member; and how many on that floor foresaw, in his gaunt frame and iron visage, a successor of him who was now to bid them farewell, the man who, for good or for evil, was to wield the future destinies of his country with the power of a Cæsar!"—Gibbs, *Administrations of Washington and Adams*, vol. i., p. 405. See also Schouler, *United States*, vol. i., p. 347.

* See Turner, in *Report of the American Historical Association* for 1903, vol. ii., pp. 727, 836, 882, 969-972.

ton met both Houses in the Senate Chamber and delivered his last annual address.* He spoke first of the measures instituted to insure a continuance of the friendship of the Indians, then of the progress made by the commissioners appointed under the Jay Treaty, of the appointment of commissioners to determine the boundary line between Spanish and American dominions, and of the state of negotiations with Algiers. He recommended that an adequate naval force be created to protect our external commerce, to secure respect of a neutral flag, and especially to protect American commerce in the Mediterranean. He called the attention of Congress to the encouragement of manufactures and agriculture and to the establishment of a national university and a military academy.

Alluding to the late conduct of the French government, Washington said: "While in our external relations some serious inconveniences and embarrassments had been overcome and others lessened, it is with much pain and deep regret I mention that circumstances of a very unwelcome nature have lately occurred. Our trade has suffered and is suffering extensive injuries in the West Indies from the cruisers and agents of the French Republic, and com-

munications have been received from its minister here which indicate the danger of further disturbance of our commerce by its authority, and which are in many respects far from agreeable." Reserving this matter for a special message, he spoke of the flourishing state of the revenue, expressed the hope for a speedy extinguishment of the debt and his solicitude to see the militia placed in an efficient condition, concluding his message as follows:

"The situation in which I now stand for the last time, in the midst of the representatives of the people of the United States, naturally recalls the period when the administration of the present form of government commenced, and I can not omit the occasion to congratulate you and my country on the success of the experiment, nor to repeat my fervent supplications * * * that the virtue and happiness of the people may be preserved, and that the Government which they have instituted for the protection of their liberties may be perpetual."

The Senate returned a cordial answer, but in the House there was considerable debate over a number of the paragraphs. William Giles, Andrew Jackson, and several others voted to expunge such paragraphs as expressed attachment to the person and character of the President, approbation of his administration, or regret at his retirement from office.* After an animated debate,† the motion to strike out such paragraphs was lost,

* Richardson, *Messages and Papers*, vol. i., pp. 199-204; *Annals of Congress*, 4th Congress, 2d session, pp. 1592-1597; Benton, *Abridgment of Debates*, vol. ii., pp. 15-16.

* Bassett, *Federalist System*, pp. 147-148.

† For which see *Annals of Congress*, 4th Congress, 2d session, pp. 1611-1668; Benton, *Abridgment of Debates*, vol. ii., pp. 17-19, 21-34.

and the answer was carried by a large majority.*

Little was done during the present session of Congress, the election absorbing all the attention of its members. There was little disposition to attend to official duties at so interesting a time. The election served to emphasize Washington's warning against geographical parties, for it showed a very marked division in this respect. In all the States the contests had been close, and in all the States north of Pennsylvania as well as in Delaware Federalist electors had been chosen. This did not fully test sectional strength, however, for in Massachusetts a Federalist legislature had filled all district vacancies for which no popular elections had taken place, and in both New York and Connecticut the electors were chosen by the legislatures. In Pennsylvania the Federalists had secured the enactment of a law requiring that Presidential electors be chosen on a general ticket, instead of by districts. This proved their undoing, for it was just what the Republicans desired. To the chagrin of the Federalists, the Republicans carried the State, many Quakers voting the Jefferson ticket in preference to the Adams ticket, because they desired that France be pacified. On February 8, the electoral votes were opened in the presence of both Houses, showing the following result:

Number of electoral votes.	STATES.	John Adams, Mass.									
		Thos. Jefferson, Va.	Thos. Pinckney, S. C.	Aaron Burr, N. Y.	Samuel Adams, Mass.	O. Ellsworth, Conn.	John Jay, N. Y.	George Clinton, N. Y.	S. Johnston, N. C.	James Fredell, N. C.	G. Washington, Va.
3	Tennessee.....	3	3								
4	Kentucky.....	4	4								
4	Georgia.....	4						4			
8	South Carolina.....	8	8								
12	North Carolina.....	11	1	6						3	1
21	Virginia.....	120	1	15				3			1
11	Maryland.....	7	4	3						1	
3	Delaware.....	3	3								
15	Pennsylvania.....	114	2	13							2
7	New Jersey.....	7									
12	New York.....	12	12								
9	Connecticut.....	9	4				5				
4	Rhode Island.....	4				4					
16	Massachusetts.....	16	13			1		2			
4	Vermont.....	4	4								
6	New Hampshire.....	6				6					
139	Total.....	71	68	59	30	15	11	5	7	2	3
										2	1
											2

It will be seen that the electoral vote was so close that the change of two ballots might have reversed the results. This was a warning not sufficiently heeded. The plan for a double Federalist chance with Adams and Pinckney had failed, as the New England electors, in obedience to the popular mandate, stood firmly by their first candidate and threw away on the second.*

Thus Adams became the second President of the United States, and Jefferson, the man most dreaded by the Federalists, became Vice-President.† “Hence,” says Adams, “un-

* Schouler, *United States*, vol. i., pp. 347-348, 533; Todd, *The True Aaron Burr*, p. 14; Parton, *Life and Times of Aaron Burr*, p. 198; Morse, *John Adams*, p. 261 *et seq.*

† Stanwood, *History of Presidential Elections*, pp. 26-29; *Annals of Congress*, 4th Congress, 2d session, pp. 2096-2097. On January 1, 1797, before the result of the election was known, Jefferson wrote to Madison and others, declaring how gladly he would take the second office in preference to the first and adding: “If Mr. Adams can be induced to administer the government on

* Richardson, *Messages and Papers*, vol. i., pp. 204-210; McMaster, vol. ii., p. 304.

der the operation of the Constitution, Mr. Jefferson, though really the competitor for the presidency, yet, as standing second on the list of suffrages, became the vice-president for four years. The great opponent of the federalists was thus put in a conspicuous place for the succession, by the very act of those who entertained a dread amounting almost to mania of the bare possibility of his elevation. Neither is this the only instance furnished by the records of a popular government, of a manner in which the keenest political contrivances are apt not only to baffle all the expectations formed of them, but to precipitate the very results which they were designed most sedulously to avoid.”*

Washington usually ignored the calumnies of his enemies, but in one instance he thought it necessary to depart from the rule laid down for himself in regard to this. In 1777 the British published a volume of forged letters, supposed to have been written by Washington to John Parke Custis and Lund Washington. These letters were said to have been found in a small portmanteau left in care

its true principles, and to relinquish its bias to an English constitution, it is to be considered whether it would not be on the whole for the public good, to come to a good understanding with him as to his future elections. He is perhaps the only sure barrier against Hamilton's getting in.”—Ford's ed. of *Jefferson's Writings*, vol. vii., p. 99; Parton, *Life of Thomas Jefferson*, p. 525. In regard to this, see also Madison's letters in *Madison's Works* (Congress ed.), vol. ii., pp. 106–109.

* John Adams, *Works*, vol. i., p. 493.

of a servant who had been taken prisoner at Fort Lee in 1776. These letters seemed to impeach the integrity of Washington's motives and to represent his inclinations as at variance with his profession and duty. The first editions of these letters had been forgotten, but they were unearthed toward the close of Washington's Presidency by the politicians of the opposing party, and were widely advertised. Washington, therefore, deemed it necessary to lay before the Secretary of State an exact account of the facts connected with the forgery. He stated that hitherto he had deemed it unnecessary to take formal notice of this imposition, but, said he, “As I cannot know how soon a more serious event may succeed to that which this day will take place, I have thought it a duty that I owed to myself, to my country, and to truth, now to detail the circumstances above recited, and to add my solemn declaration, that the letters herein described are a base forgery; and that I never saw or heard of them until they appeared in print. The present letter I commit to your care, and desire it may be deposited in the office of the department of state, as a testimony of the truth to the present generation and to posterity.”*

Shortly before the close of Washington's term, an event occurred

* See Lodge, *George Washington*, vol. ii., p. 253; Irving, *Life of Washington*, vol. iii., pp. 381–382, vol. v., p. 286; Ford, *Spurious Letters of Washington*; Ford's ed. of *Washington's Writings*, vol. xiii., pp. 266, 366, 378, 427, note.

which is thus related by Bishop White: "On the day before President Washington retired from office, a large company dined with him. Among them were the foreign ministers and their ladies, Mr. and Mrs. Adams, Mr. Jefferson and other conspicuous persons of both sexes. During the dinner much hilarity prevailed; but, on the removal of the cloth, it was put an end to by the President, certainly without design. Having filled his glass he addressed the company with a smile, as nearly as can be recollected in the following words: 'Ladies and gentlemen, this is the last time I shall drink your health as a public man. I do it with sincerity, wishing you all possible happiness.' There was an end to all pleasantry. He who gives this relation accidentally directed his eye to the lady of the British minister, Mrs. Liston, and tears were running down her cheeks." *

The citizens of Philadelphia gave a splendid banquet in Washington's honor, which was attended by many of the most distinguished men in the country. After performing the duties of courtesy toward the President-elect, Washington hastened to Mt. Vernon, being everywhere on the road greeted with great enthusiasm. His efforts to make his journey in privacy were unavailing, as in every part of the country through which he passed the people were eager to testify their high regard for the father

of his country. That Washington looked forward with great pleasure to his retirement, is evident from his letters. Writing to Knox, he said:

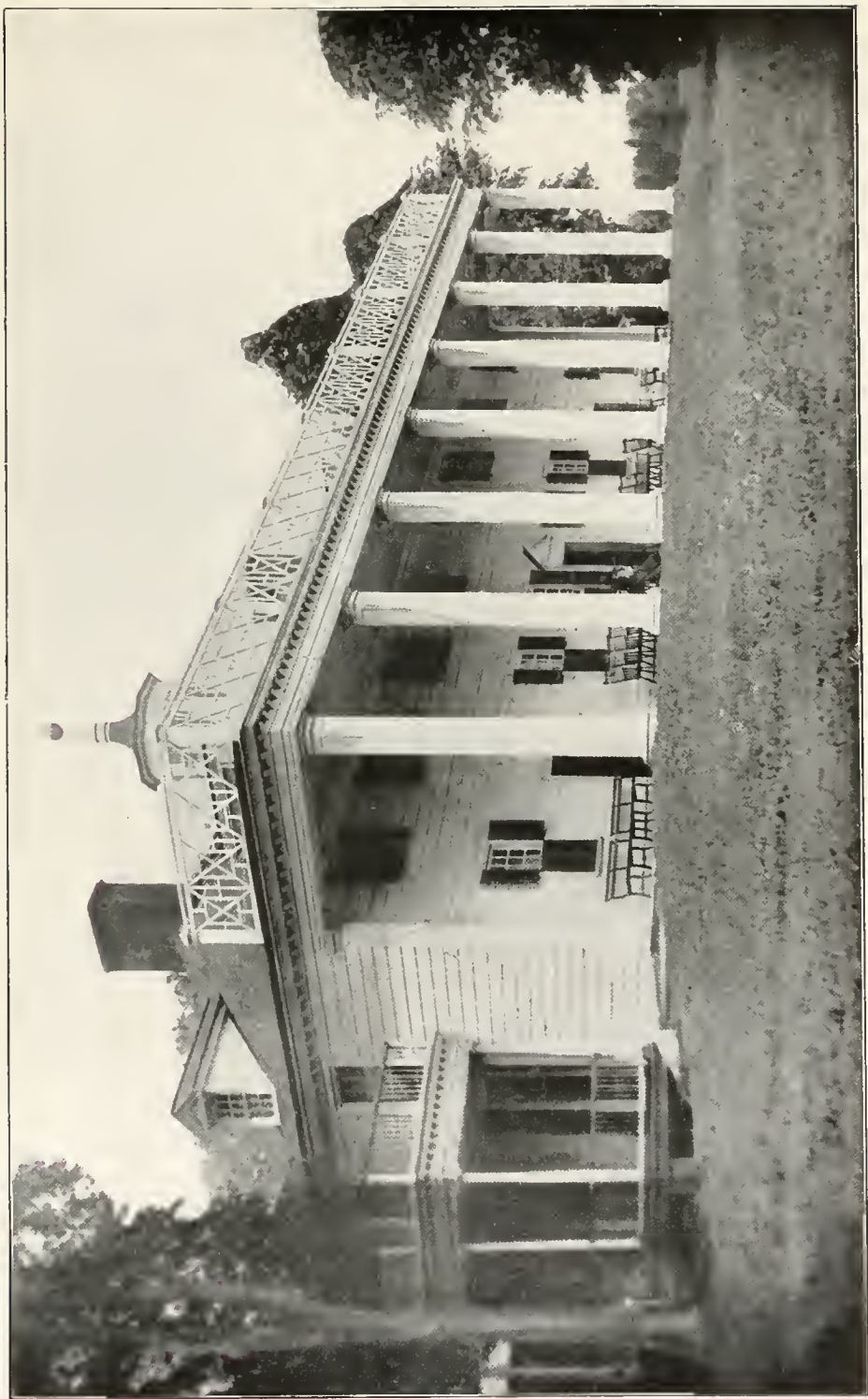
"To the wearied traveller who sees a resting-place, and is bending his body to lean thereon, I now compare myself; but to be suffered to do this in peace is too much to be endured by some. To misrepresent my motives, to reprobate my politics, and to weaken the confidence which has been reposed in my administration, are objects which cannot be relinquished by those who will be dissatisfied with nothing short of a change in our political system. The consolation, however, which results from conscious rectitude, and the approving voice of my country, unequivocally expressed by its representatives, deprive their sting of its poison, and place in the same point of view both the weakness and malignity of their efforts. Although the prospect of retirement is most grateful to my soul, and I have not a wish to mix again in the great world, or to partake in its politics, yet I am not without my regrets at parting with (perhaps never more to meet) the few intimates whom I love. Among these, be assured, you are one."

The results of Washington's eight years in office are summed up by one historian as follows:

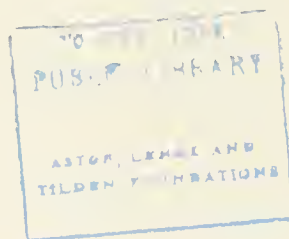
"In the midst of the most appalling obstacles, through the bitterest internal dissensions, and the most formidable combinations of foreign antipathies and cabals, he had subdued all opposition to the Constitution itself; had averted all dangers of European war; had redeemed the captive children of his country from Algiers; had reduced by chastisement, and conciliated by kindness, the most hostile of the Indian tribes; had restored the credit of the nation, and redeemed their reputation of fidelity to the performance of their obligations; had provided for the total extinguishment of the public debt; had settled the Union upon the immovable foundation of principles, and had drawn around his head for the admiration and emulation of after times, a brighter blaze of glory than had ever encircled the brows of hero or statesman, patriot or sage." *

* *Jubilee of the Constitution*, p. 113. Mr. Gibbs (vol. i., pp. 444-450) makes some eloquent remarks and interesting reflections on the subject of Washington's retirement into private life.

* Sparks, *Life of Washington*, p. 477.



WASHINGTON'S HOME AT MOUNT VERNON.



Marshall contrasts the conditions in 1797 with those in 1788 as follows:

"At home, a sound credit had been created; an immense floating debt had been funded in a manner perfectly satisfactory to the creditors; an ample revenue had been provided; those difficulties which a system of internal taxation, on its first introduction, is doomed to encounter, were completely removed; and the authority of government was firmly established. Funds for the gradual payment of the debt had been provided; a considerable part of it had been actually discharged; and that system which has operated its entire extinction, had been matured and adopted. The agricultural and commercial wealth of the nation had increased beyond all former example. The numerous tribes of warlike Indians, inhabiting those immense tracts which lie between the then cultivated country and the Mississippi, had been taught, by arms and by justice, to respect the United States, and to continue in peace. This desirable object having been accomplished, that humane system was established, for civilizing and furnishing them with those conveniences of life which improve their condition, and secure their attachment.

"Abroad, the differences with Spain had been accommodated, and the free navigation of the Mississippi had been acquired, with the use of New Orleans as a place of deposit for three years, and afterwards, until some other equivalent place should be designated. Those causes of mutual exasperation which had threatened to involve the

United States in war with the greatest maritime and commercial power in the world, had been removed; and the military posts which had been occupied within their territory from their existence as a nation, had been evacuated. Treaties had been formed with Algiers and with Tripoli, and no captures appear to have been made by Tunis; so that the Mediterranean was opened to American vessels.

"This bright prospect was indeed shaded by the discontents of France. Those who have attended to the points of difference between the two nations, will assign the causes to which these discontents are to be ascribed, and will judge whether it was in the power of the president to have avoided them without surrendering the real independence of the nation, and the most invaluable of all rights,—the right of self-government.

"Such was the situation of the United States at the close of Washington's administration. Their condition at its commencement will be recollected; and the contrast is too striking not to be observed. That this beneficial change in the affairs of America is to be ascribed exclusively to the wisdom which guided the national councils, will not be pretended. That many of the causes which produced it originated with the government, and that their successful operation was facilitated, if not secured, by the system which was adopted, can scarcely be denied. To estimate that system correctly, their real influence must be allowed to those strong prejudices and turbulent passions with which it was assailed."*

APPENDIX TO CHAPTER IX.

WASHINGTON'S FAREWELL ADDRESS.

"FRIENDS AND FELLOW CITIZENS:—The period for a new election of a citizen to administer the Executive Government of the United States being not far distant, and the time actually arrived when your thoughts must be employed in designating the person who is to be clothed with that important trust, it appears to me proper, especially as it may conduce to a more distinct expression of the public voice, that I should now apprise you of the resolution I have formed to decline being considered among the number of those out of whom a choice is to be made.

"I beg you at the same time to do me the justice to be assured that this resolution has not

been taken without a strict regard to all the considerations appertaining to the relation which binds a dutiful citizen to his country; and that in withdrawing the tender of service, which silence in my situation might imply, I am influenced by no diminution of zeal for your future interest,

*Sparks devotes several pages to the consideration of Mr. Jefferson's conduct toward Washington, in which he says that "after all, it is not easy to be convinced, that Jefferson is not, in some degree, chargeable with delinquency towards Washington during the latter years of his life."—*Life of Washington*, p. 478 *et seq.*

no deficiency of grateful respect for your past kindness but am supported by a full conviction that the step is compatible with both.

"The acceptance of and continuance hitherto in the office to which your suffrages have twice called me have been a uniform sacrifice of inclination to the opinion of duty and to a deference for what appeared to be your desire. I constantly hoped that it would have been much earlier in my power, consistently with motives which I was not at liberty to disregard, to return to that retirement from which I had been reluctantly drawn. The strength of my inclination to do this previous to the last election had even led to the preparation of an address to declare it to you; but mature reflection on the then perplexed and critical posture of our affairs with foreign nations and the unanimous advice of persons entitled to my confidence impelled me to abandon the idea. I rejoice that the state of your concerns, external as well as internal, no longer renders the pursuit of inclination incompatible with the sentiment of duty or propriety, and am persuaded, whatever partiality may be retained for my services, that in the present circumstances of our country you will not disapprove my determination to retire.

"The impressions with which I first undertook the arduous trust were explained on the proper occasion. In the discharge of this trust I will only say that I have, with good intentions, contributed toward the organization and administration of the Government the best exertions of which a very fallible judgment was capable. Not unconscious in the onset of the inferiority of my qualifications, experience in my own eyes, perhaps still more in the eyes of others, has strengthened the motives to diffidence of myself; and every day the increasing weight of years admonishes me more and more that the shade of retirement is as necessary to me as it will be welcome. Satisfied that if any circumstances have given peculiar value to my services they were temporary, I have the consolation to believe that, while choice and prudence invite me to quit the political scene, patriotism does not forbid it.

"In looking forward to the moment which is intended to terminate the career of my political life my feelings do not permit me to suspend the deep acknowledgment of that debt of gratitude which I owe to my beloved country for the many honors it has conferred upon me; still more for the steadfast confidence with which it has supported me, and for the opportunities I have thence enjoyed of manifesting my inviolable attachment by services faithful and persevering, though in

usefulness unequal to my zeal. If benefits have resulted to our country from these services, let it always be remembered to your praise and as an instructive example in our annals that under circumstances in which the passions, agitated in every direction, were liable to mislead; amidst appearances sometimes dubious; vicissitudes of fortune often discouraging; in situations in which not unfrequently want of success has countenanced the spirit of criticism, the constancy of your support was the essential prop of the efforts, and a guarantee of the plans by which they were effected. Profoundly penetrated with this idea, I shall carry it with me to my grave as a strong incitement to unceasing vows that Heaven may continue to you the choicest tokens of its beneficence; that your union and brotherly affection may be perpetual; that the free Constitution which is the work of your hands may be sacredly maintained; that its administration in every department may be stamped with wisdom and virtue; that in fine, the happiness of the people of these States, under the auspices of liberty, may be made complete by so careful a preservation and so prudent a use of this blessing as will acquire to them the glory of recommending it to the applause, the affection, and adoption of every nation which is yet a stranger to it.

"Here, perhaps, I ought to stop. But a solicitude for your welfare which cannot end but with my life, and the apprehension of danger natural to that solicitude, urge me on an occasion like the present to offer to your solemn contemplation and to recommend to your frequent review some sentiments which are the result of much reflection, of no inconsiderable observation, and which appear to me all-important to the permanency of your felicity as a people. These will be offered to you with the more freedom as you can only see in them the disinterested warnings of a parting friend, who can possibly have no personal motive to bias his counsel. Nor can I forget as an encouragement to it your indulgent reception of my sentiments on a former and not dissimilar occasion.

"Interwoven as is the love of liberty with every ligament of your hearts, no recommendation of mine is necessary to fortify or confirm the attachment.

"The unity of government which constitutes you one people is also now dear to you. It is justly so, for it is a main pillar in the edifice of your real independence, the support of your tranquillity at home, your peace abroad, of your safety, of your prosperity, of that very liberty which you so highly prize. But as it is easy

to foresee that from different causes and from different quarters much pains will be taken, many artifices employed, to weaken in your minds the conviction of this truth, as this is the point in your political fortress against which the batteries of internal and external enemies will be most constantly and actively (though often covertly and insidiously) directed, it is of infinite moment that you should properly estimate the immense value of your national union to your collective and individual happiness; that you should cherish a cordial, habitual, and immovable attachment to it; accustoming yourselves to think and speak of it as of the palladium of your political safety and prosperity; watching for its preservation with jealous anxiety; discountenancing whatever may suggest even a suspicion that it can in any event be abandoned, and indignantly frowning upon the first dawning of every attempt to alienate any portion of our country from the rest or to enfeeble the sacred ties which now link together the various parts.

"For this you have every inducement of sympathy and interest. Citizens by birth or choice of a common country, that country has a right to concentrate your affections. The name of American, which belongs to you in your national capacity, must always exalt the just pride of patriotism more than any appellation derived from local discriminations. With slight shades of difference, you have the same religion, manners, habits, and political principles. You have in a common cause fought and triumphed together. The independence and liberty you possess are the work of joint councils and joint efforts, of common dangers, sufferings, and successes.

"But these considerations, however powerfully they address themselves to your sensibility, are greatly outweighed by those which apply more immediately to your interest. Here every portion of our country finds the most commanding motives for carefully guarding and preserving the union of the whole.

"The *North*, in an unrestrained intercourse with the *South*, protected by the equal laws of a common government, finds in the productions of the latter great additional resources of maritime and commercial enterprise and precious materials of manufacturing industry. The *South*, in the same intercourse, benefiting by the same agency of the *North*, sees its agriculture grow and its commerce expand. Turning partly into its own channels the seamen of the *North*, it finds its particular navigation invigorated; and while it contributes in different ways to nourish and increase the general mass of the national navigation,

it looks forward to the protection of a maritime strength to which itself is unequally adapted. The *East*, in like intercourse with the *West*, already finds, and in the progressive improvement of interior communications by land and water will more and more find, a valuable vent for the commodities which it brings from abroad or manufactures at home. The *West* derives from the *East* supplies requisite to its growth and comfort, and what is perhaps of still greater consequence, it must of necessity owe the *secure* enjoyment of indispensable *outlets* for its own productions to the weight, influence, and the future maritime strength of the Atlantic side of the Union, directed by an indissoluble community of interest as *one nation*. Any other tenure by which the *West* can hold this essential advantage, whether derived from its own separate strength or from an apostate and unnatural connection with any foreign power, must be intrinsically precarious.

"While, then, every part of our country thus feels an immediate and particular interest in union, all the parts combined cannot fail to find in the united mass of means and efforts greater strength, greater resource, proportionably greater security from external danger, a less frequent interruption of their peace by foreign nations, and what is of inestimable value they must derive from union an exemption from those broils and wars between themselves which so frequently afflict neighboring countries not tied together by the same governments, which their own rivalships alone would be sufficient to produce, but which opposite foreign alliances, attachments, and intrigues would stimulate and embitter. Hence, likewise, they will avoid the necessity of those overgrown military establishments which, under any form of government, are inauspicious to liberty, and which are to be regarded as particularly hostile to republican liberty. In this sense it is that your union ought to be considered as a main prop of your liberty, and that the love of the one ought to endear to you the preservation of the other.

"These considerations speak a persuasive language to every reflecting and virtuous mind, and exhibit the continuance of the Union as a primary object of patriotic desire. Is there a doubt whether a common government can embrace so large a sphere? Let experience solve it. To listen to mere speculation in such a case were criminal. We are authorized to hope that a proper organization of the whole, with the auxiliary agency of governments for the respective subdivisions will afford a happy issue to the experiment. It is

well worth a fair and full experiment. With such powerful and obvious motives to union affecting all parts of our country, while experience shall not have demonstrated its impracticability, there will always be reason to distrust the patriotism of those who in any quarter may endeavor to weaken its bands.

"In contemplating the causes which may disturb our union it occurs as matter of serious concern that any ground should have been furnished for characterizing parties by geographical discriminations—*Northern* and *Southern*, *Atlantic* and *Western*—whence designing men may endeavor to excite a belief that there is a real difference of local interests and views. One of the expedients of party to acquire influence within particular districts is to misrepresent the opinions and aims of other districts. You cannot shield yourselves too much against the jealousies and heart-burnings which spring from these misrepresentations; they tend to render alien to each other those who ought to be bound together by fraternal affection. The inhabitants of our Western country have lately had a useful lesson on this head. They have seen in the negotiation by the Executive and in the unanimous ratification by the Senate of the treaty with Spain, and in the universal satisfaction at that event throughout the United States, a decisive proof how unfounded were the suspicions propagated among them of a policy in the General Government and in the Atlantic States unfriendly to their interests in regard to the Mississippi. They have been witnesses to the formation of two treaties—that with Great Britain and that with Spain—which secure to them every thing they could desire in respect to our foreign relations toward confirming their prosperity. Will it not be their wisdom to rely for the preservation of these advantages on the Union by which they were procured? Will they not henceforth be deaf to those advisers, if such there are, who would sever them from their brethren and connect them with aliens?

"To the efficacy and permanency of your union a government for the whole is indispensable. No alliances, however strict, between the parts can be an adequate substitute. They must inevitably experience the infractions and interruptions which all alliances in all times have experienced. Sensible of this momentous truth, you have improved upon your first essay by the adoption of a Constitution of Government better calculated than your former for an intimate union and for the efficacious management of your common concerns. This Government, the offspring of our own choice,

uninfluenced and unawed, adopted upon full investigation and mature deliberation, completely free in its principles, in the distribution of its powers, uniting security with energy, and containing within itself a provision for its own amendment, has a just claim to your confidence and your support. Respect for its authority, compliance with its laws, acquiescence in its measures, are duties enjoined by the fundamental maxims of true liberty. The basis of our political systems is the right of the people to make and to alter their constitutions of government. But the constitution which at any time exists till changed by an explicit and authentic act of the whole people is sacredly obligatory upon all. The very idea of the power and the right of the people to establish government presupposes the duty of every individual to obey the established government.

"All obstructions to the execution of the laws, all combinations and associations, under whatever plausible character, with the real design to direct, control, counteract, or awe the regular deliberation and action of the constituted authorities, are destructive of this fundamental principle and of fatal tendency. They serve to organize faction; to give it an artificial and extraordinary force; to put in the place of the delegated will of the nation the will of a party, often a small but artful and enterprising minority of the community, and, according to the alternate triumphs of different parties, to make the public administration the mirror of the ill-concerted and incongruous projects of faction rather than the organ of consistent and wholesome plans, digested by common councils and modified by mutual interests.

"However combinations or associations of the above description may now and then answer popular ends, they are likely in the course of time and things to become potent engines by which cunning, ambitious, and unprincipled men will be enabled to subvert the power of the people, and to usurp for themselves the reins of government, destroying afterwards the very engines which have lifted them to unjust dominion.

"Toward the preservation of your Government and the permanency of your present happy state, it is requisite not only that you steadily discountenance irregular oppositions to its acknowledged authority, but also that you resist with care the spirit of innovation upon its principles, however specious the pretends. One method of assault may be to effect in the forms of the Constitution alterations which will impair the energy of the system, and thus to undermine what cannot be directly

overthrown. In all the changes to which you may be invited remember that time and habit are at least as necessary to fix the true character of governments as of other human institutions; that experience is the surest standard by which to test the real tendency of the existing constitution of a country; that facility in changes upon the credit of mere hypothesis and opinion exposes to perpetual change, from the endless variety of hypothesis and opinion; and remember especially that for the efficient management of your common interests in a country so extensive as ours a government of as much vigor as is consistent with the perfect security of liberty is indispensable. Liberty itself will find in such a government, with powers properly distributed and adjusted, its surest guardian. It is, indeed, little else than a name where the government is too feeble to withstand the enterprises of faction, to confine each member of the society within the limits prescribed by the laws, and to maintain all in the secure and tranquil enjoyment of the rights of person and property.

"I have already intimated to you the danger of parties in the state, with particular reference to the founding of them on geographical discriminations. Let me now take a more comprehensive view, and warn you in the most solemn manner against the baneful effects of the spirit of party generally.

"This spirit, unfortunately, is inseparable from our nature, having its root in the strongest passions of the human mind. It exists under different shapes in all governments, more or less stifled, controlled, or repressed; but in those of the popular form it is seen in its greatest rankness and is truly their worst enemy.

"The alternate domination of one faction over another, sharpened by the spirit of revenge natural to party dissension, which in different ages and countries has perpetrated the most horrid enormities, is itself a frightful despotism. But this leads at length to a more formal and permanent despotism. The disorders and miseries which result gradually incline the minds of men to seek security and repose in the absolute power of an individual, and sooner or later the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition to the purposes of his own elevation on the ruins of public liberty.

"Without looking forward to an extremity of this kind (which nevertheless ought not to be entirely out of sight), the common and continual mischiefs of the spirit of party are sufficient to

make it the interest and duty of a wise people to discourage and restrain it.

"It serves always to distract the public councils and enfeeble the public administration. It agitates the community with ill-founded jealousies and false alarms; kindles the animosity of one part against another; foment occasional riot and insurrection. It opens the door to foreign influence and corruption, which find a facilitated access to the government itself through the channels of party passions. Thus the policy and the will of one country are subjected to the policy and will of another.

"There is an opinion that parties in free countries are useful checks upon the administration of the government, and serve to keep alive the spirit of liberty. This within certain limits is probably true; and in governments of a monarchical cast, patriotism may look with indulgence, if not with favor, upon the spirit of party. But in those of the popular character, in governments purely elective, it is a spirit not to be encouraged. From their natural tendency it is certain there will always be enough of that spirit for every salutary purpose; and there being constant danger of excess, the effort ought to be by force of public opinion to mitigate and assuage it. A fire not to be quenched, it demands a uniform vigilance to prevent its bursting into a flame, lest, instead of warming, it should consume.

"It is important, likewise, that the habits of thinking in a free country should inspire caution in those intrusted with its administration to confine themselves within their respective constitutional spheres, avoiding in the exercise of the powers of one department to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism. A just estimate of that love of power and proneness to abuse it which predominate in the human heart is sufficient to satisfy us of the truth of this position. The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories, and constituting each the guardian of the public weal against invasions of the others, has been evinced by experiments ancient and modern, some of them in our country and under our own eyes. To preserve them must be as necessary as to institute them. If in the opinion of the people the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution desig-

nates. But let there be no change by usurpation; for though this in one instance may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil any partial or transient benefit which the use can at any time yield.

"Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism who should labor to subvert these great pillars of human happiness—these firmest props of the duties of men and citizens. The mere politician, equally with the pious man, ought to respect and to cherish them. A volume could not trace all their connections with private and public felicity. Let it simply be asked, Where is the security for property, for reputation, for life, if the sense of religious obligation *desert* the oaths which are the instruments of investigation in courts of justice? And let us with caution indulge the supposition that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle.

"It is substantially true that virtue or morality is a necessary spring of popular government. This rule indeed extends with more or less force to every species of free government. Who that is a sincere friend to it can look with indifference upon attempts to shake the foundation of the fabric? Promote, then, as an object of primary importance, institutions for the general diffusion of knowledge. In proportion as the structure of a government gives force to public opinion, it is essential that public opinion should be enlightened.

"As a very important source of strength and security, cherish public credit. One method of preserving it is to use it as sparingly as possible, avoiding occasions of expense by cultivating peace, but remembering also that timely disbursements to prepare for danger frequently prevent much greater disbursements to repel it; avoiding likewise the accumulation of debt, not only by shunning occasions of expense, but by vigorous exertions in time of peace to discharge the debts which unavoidable wars have occasioned, not ungenerously throwing upon posterity the burthen which we ourselves ought to bear. The execution of these maxims belongs to your representatives; but it is necessary that public opinion should co-operate. To facilitate to them the per-

formance of their duty it is essential that you should practically bear in mind that toward the payment of debts there must be revenue; that to have revenue there must be taxes; that no taxes can be devised which are not more or less inconvenient and unpleasant; that the intrinsic embarrassment inseparable from the selection of the proper objects (which is always a choice of difficulties), ought to be a decisive motive for a candid construction of the conduct of the government in making it, and for a spirit of acquiescence in the measures for obtaining revenue which the public exigencies may at any time dictate.

"Observe good faith and justice toward all nations. Cultivate peace and harmony with all. Religion and morality enjoin this conduct. And can it be that good policy does not equally enjoin it? It will be worthy of a free, enlightened, and at no distant period a great nation to give to mankind the magnanimous and too novel example of a people always guided by an exalted justice and benevolence. Who can doubt that in the course of time and things the fruits of such a plan would richly repay any temporary advantages which might be lost by a steady adherence to it? Can it be that Providence has not connected the permanent felicity of a nation with its virtue? The experiment, at least, is recommended by every sentiment which ennobles human nature. Alas! it is rendered impossible by its vices.

"In the execution of such a plan, nothing is more essential than that permanent inveterate antipathies against particular nations and passionate attachments for others should be excluded, and that in place of them just and amicable feelings toward all should be cultivated. The nation which indulges toward another an habitual hatred or an habitual fondness is in some degree a slave. It is a slave to its animosity or to its affection, either of which is sufficient to lead it astray from its duty and its interest. Antipathy in one nation against another disposes each more readily to offer insult and injury, to lay hold of slight causes of umbrage, and to be haughty and intractable when accidental or trifling occasions of dispute occur.

"Hence frequent collisions, obstinate, envenomed, and bloody contests. The nation prompted by ill-will and resentment sometimes impels to war the government contrary to the best calculations of policy. The government sometimes participates in the national propensity, and adopts through passion what reason would reject. At other times it makes the animosity of the nation subservient to projects of hostility, instigated by

pride, ambition, and other sinister and pernicious motives. The peace often, sometimes perhaps the liberty, of nations has been the victim.

"So, likewise, a passionate attachment of one nation for another produces a variety of evils. Sympathy for the favorite nation, facilitating the illusion of an imaginary common interest in cases where no real common interest exists, and infusing into one the enmities of the other, betrays the former into a participation in the quarrels and wars of the latter without adequate inducement or justification. It leads also to concessions to the favorite nation of privileges denied to others, which is apt doubly to injure the nation making the concessions by unnecessarily parting with what ought to have been retained, and by exciting jealousy, ill-will, and a disposition to retaliate in the parties from whom equal privileges are withheld; and it gives to ambitious, corrupted, or deluded citizens (who devote themselves to the favorite nation) facility to betray or sacrifice the interests of their own country without odium, sometimes even with popularity, gilding with the appearances of a virtuous sense of obligation, a commendable deference for public opinion, or a laudable zeal for public good the base or foolish compliances of ambition, corruption, or infatuation.

"As avenues to foreign influence in innumerable ways, such attachments are particularly alarming to the truly enlightened and independent patriot. How many opportunities do they afford to tamper with domestic factions, to practice the arts of seduction, to mislead public opinion, to influence or awe the public councils! Such an attachment of a small or weak toward a great and powerful nation dooms the former to be the satellite of the latter. Again the insidious wiles of foreign influence (I conjure you to believe me, fellow-citizens) the jealousy of a free people ought to be *constantly* awake, since history and experience prove that foreign influence is one of the most baneful foes of republican government. But that jealousy, to be useful, must be impartial, else it becomes the instrument of the very influence to be avoided, instead of a defence against it. Excessive partiality for one foreign nation and excessive dislike of another cause those whom they actuate to see danger only on one side, and serve to veil and even second the arts of influence on the other. Real patriots who may resist the intrigues of the favorite are liable to become suspected and odious, while its tools and dupes usurp the applause and confidence of the people to surrender their interests.

"The great rule of conduct for us in regard to foreign nations is, in extending our commercial relations to have with them as little *political* connection as possible. So far as we have already formed engagements let them be fulfilled with perfect good faith. Here let us stop.

"Europe has a set of primary interests which to us have none or a very remote relation. Hence she must be engaged in frequent controversies, the causes of which are essentially foreign to our concerns. Hence, therefore, it must be unwise in us to implicate ourselves by artificial ties in the ordinary vicissitudes of her politics or the ordinary combinations and collisions of her friendships or enmities.

"Our detached and distant situation invites and enables us to pursue a different course. If we remain one people, under an efficient government, the period is not far off when we may defy material injury from external annoyance; when we may take such an attitude as will cause the neutrality we may at any time resolve upon to be scrupulously respected; when belligerent nations, under the impossibility of making acquisitions upon us, will not lightly hazard the giving us provocation; when we may choose peace or war, as our interest, guided by justice, shall counsel.

"Why forego the advantages of so peculiar a situation? Why quit our own to stand upon foreign ground? Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European ambition, rivalry, interest, humor, or caprice?

"It is our true policy to steer clear of permanent alliances with any portion of the foreign world, so far, I mean, as we are now at liberty to do it; for let me not be misunderstood as capable of patronizing infidelity to existing engagements. I hold the maxim no less applicable to public than to private affairs that honesty is always the best policy. I repeat it, therefore, let those engagements be observed in their genuine sense. But in my opinion it is unnecessary and would be unwise to extend them.

"Taking care always to keep ourselves by suitable establishments on a respectable defensive posture, we may safely trust to temporary alliances for extraordinary emergencies.

"Harmony, liberal intercourse with all nations are recommended by policy, humanity, and interest. But even our commercial policy should hold an equal and impartial hand, neither seeking nor granting exclusive favors or preferences; consulting the natural course of things; diffusing and diversifying by gentle means the streams of commerce, but forcing nothing; establishing with

powers so disposed, in order to give trade a stable course, to define the rights of our merchants, and to enable the government to support them, conventional rules of intercourse, the best that present circumstances and mutual opinion will permit, but temporary and liable to be from time to time abandoned or varied as experience and circumstances shall dictate; constantly keeping in view that it is folly in one nation to look for disinterested favors from another; that it must pay with a portion of its independence for whatever it may accept under that character; that by such acceptance it may place itself in the condition of having given equivalents for nominal favors, and yet of being reproached with ingratitude for not giving more. There can be no greater error than to expect or calculate upon real favors from nation to nation. It is an illusion which experience must cure, which a just pride ought to discard.

"In offering to you, my countrymen, these counsels of an old and affectionate friend I dare not hope they will make the strong and lasting impression I could wish that they will control the usual current of the passions or prevent our nation from running the course which has hitherto marked the destiny of nations. But if I may even flatter myself that they may be productive of some partial benefit, some occasional good that they may now and then recur to moderate the fury of party spirit, to warn against the mischiefs of foreign intrigue, to guard against the impostures of pretended patriotism, this hope will be a full recompense for the solicitude for your welfare by which they have been dictated.

"How far in the discharge of my official duties I have been guided by the principles which have been delineated the public records and other evidences of my conduct must witness to you and to the world. To myself, the assurance of my own conscience is that I have at least believed myself to be guided by them.

"In relation to the still subsisting war in Europe my proclamation of the 22d of April, 1793, is the index to my plan. Sanctioned by your approving voice and by that of your representatives in both Houses of Congress, the spirit of that measure has continually governed me, uninfluenced by any attempts to deter or divert me from it.

"After deliberate examination, with the aid of the best lights I could obtain, I was well satisfied that our country, under all the circumstances of

the case, had a right to take, and was bound in duty and interest to take, a neutral position. Having taken it, I determined as far as should depend upon me to maintain it with moderation, perseverance, and firmness.

"The considerations which respect the right to hold this conduct it is not necessary on this occasion to detail. I will only observe that, according to my understanding of the matter, that right, so far from being denied by any of the belligerent powers, has been virtually admitted by all.

"The duty of holding a neutral conduct may be inferred, without anything more, from the obligation which justice and humanity impose on every nation, in cases in which it is free to act, to maintain inviolate the relations of peace and amity toward other nations.

"The inducements of interest for observing that conduct will best be referred to your own reflections and experience. With me a predominant motive has been to endeavor to gain time to our country to settle and mature its yet recent institutions, and to progress without interruption to that degree of strength and consistency which is necessary to give it, humanly speaking, the command of its own fortunes.

"Though in reviewing the incidents of my Administration I am unconscious of intentional error, I am nevertheless too sensible of my defects not to think it probable that I may have committed many errors. Whatever they may be, I fervently beseech the Almighty to avert or mitigate the evils to which they may tend. I shall also carry with me the hope that my country will never cease to view them with indulgence, and that, after forty-five years of my life dedicated to its service with an upright zeal, the faults of incompetent abilities will be consigned to oblivion, as myself must soon be to the mansions of rest.

"Relying on its kindness in this as in other things, and actuated by that fervent love toward it which is so natural to a man who views in it the native soil of himself and his progenitors for several generations, I anticipate with pleasing expectation that retreat in which I promise myself to realize without alloy the sweet enjoyment of partaking in the midst of my fellow-citizens the benign influence of good laws under a free government—the ever favorite object of my heart, and the happy reward, as I trust, of our mutual cares, labors, and dangers.

"UNITED STATES, Sept. 17, 1796."

CHAPTER X.

1789-1800.

BEGINNING OF THE ANTI-SLAVERY STRUGGLE.

Anti-slavery sentiment prior to the adoption of the Constitution — The struggle in the Constitutional Convention — Enactment of anti-slavery laws by the States — Attempt to lay duty on imported slaves — Debate in Congress on anti-slavery petitions — Passing of resolutions — The fugitive slave law of 1793 — Other debates in Congress.

Anti-slavery sentiment had taken root early in all the States and had continued until the extensive cultivation of cotton opened up a vast field for rapid development in the lower South. There had been two movements — one for the abolition of further importations of negroes, and another for the actual and absolute abolition of slavery. When the non-importation resolutions of 1774 were adopted it was agreed that, after December 1, 1774, no slave should be imported into any of the colonies and that no colonial vessels should either engage in the traffic themselves or be hired to others for that purpose.* This stand was reaffirmed in a special resolution of Congress April 6, 1776; but the restriction was hardly necessary, for during the war — and certainly by 1783 — the importation of slaves had almost ceased.† During this time many of the States passed laws

against the traffic, so that by 1778 all the northern States, as well as Virginia and Maryland, had practically made such importations impossible.

After the war, there was a tendency in the far South to revive the slave-trade, but in 1786 a duty was laid by North Carolina on all slaves imported into her borders, and the following year South Carolina declared for absolute prohibition. Georgia held out for some time. In 1788 Virginia forbade the importation of slaves, and a committee appointed to revise the statutes drew up a plan for gradual emancipation.* In 1792 South Carolina passed a new prohibitory act; in 1794 North Carolina, who had repealed her restrictive act in 1790, again passed an act prohibiting further importation; and in 1798 Georgia did likewise.† Nevertheless, as it was possible for any of the States to repeal their prohibitory acts, it was deemed desirable when the new Con-

* Ford's ed. of the *Journals of Continental Congress*, vol. i., pp. 75-80; Von Holst, *Constitutional and Political History*, vol. i., p. 281.

† M. S. Locke, *Anti-Slavery in America*, p. 73.

* Von Holst, *Constitutional and Political History*, vol. i., p. 285.

† W. E. B. DuBois, *Suppression of the African Slave-Trade*, pp. 51, 71.

stitution was passed that the new government should have full control over the slave-trade. Such a provision was introduced in the Constitutional Convention of 1787 and caused long and heated discussion. Georgia and the Carolinas so sturdily contended for the right to regulate the trade themselves that the other States finally compromised the matter by allowing the traffic to continue until 1808, though the right to impose a tax of \$10 on each imported person was reserved to the government.* Another debate then ensued as to the basis of representation in the lower House of Congress, the South demanding the inclusion of both blacks and whites, and the North claiming that, as the South did not allow the slaves to vote, they should not be used as a basis of representation in Congress. The same arguments were used in the effort to fix the basis for a direct tax, the dispute finally terminating in a compromise by which only three-fifths of the slaves were to be counted.

Vermont, when its people declared themselves a State, was the first of the American States to declare for freedom for the slaves, a bill of rights having been adopted in 1777 forbidding slavery.† In 1784 New Hampshire declared in her organic law that "all men are born equally

free and independent," and as slavery had no hold in that State there was no contest. In Massachusetts several attempts to secure the passage by the Legislature of an emancipation act had failed, but the Constitution of 1780 declared that "all men are born free and equal," and in 1783 the courts held that this declaration established freedom from slavery. As Maine was then under the jurisdiction of Massachusetts, she also became free territory.* Immediate emancipation was nowhere successful at this time, and gradual emancipation was seen to be the only course open. By an act of March 1, 1780, Pennsylvania adopted this form of abolition, and she was followed by Connecticut and Rhode Island in 1784, and by New Jersey in 1804.† The majority of the public men of the South, especially of Virginia, were opposed to slavery on principle, but the slaves constituted the wealth of a great many people, and they naturally opposed emancipation. Moreover, emancipators could not formulate any plan for disposing of the negroes after they should be freed, and hence the movement failed.‡

In the West the Abolitionists had been able to forestall slavery, the

* *Ibid.*, pp. 80-82; Rhodes, *History of the United States from the Compromise of 1850*, vol. i., p. 14.

† Locke, *Anti-Slavery*, pp. 77-79, 123-125, 127-128.

‡ J. C. Ballagh, *History of Slavery in Virginia*, pp. 130-136. See also Madison's *Works* (Congress ed.), vol. i., p. 200. See also the chapter on "Cotton and the Extension of Slavery," in Hammond, *The Cotton Industry*, p. 34 et seq.

* See chapter on the framing of the Constitution, Second Period, Part ii., chap. vi., *ante*. A short account is in Von Holst, *Constitutional and Political History*, vol. i., pp. 288-301.

† Locke, *Anti-Slavery in America*, p. 80.

territory north and west of the Ohio being dedicated to freedom by the united action of the Northerners and Southerners, Jefferson leading the movement. In 1784 it was attempted to prohibit slavery after 1800 throughout the West, but this attempt was defeated by one vote. In 1787 the plan to prohibit slavery in the Northwest was successfully carried out, but in the territory south of the Ohio slavery was allowed to flourish; and in 1798, when Mississippi became a territory, the provision prohibiting slavery there was overwhelmingly defeated.* In 1805 a bill for gradual emancipation in the District of Columbia was rejected by a vote of 77 to 31.†

After the organization of the new government, numerous petitions were sent to Congress requesting the abolition of the slave traffic. During the first session of the First Congress, while the revenue bill was under discussion, Parker, of Virginia, introduced an amendment to that measure, providing that a duty of \$10 apiece be laid on all negroes imported into this country. He and his colleagues supported the measure chiefly to discourage the "irrational and inhuman" traffic, thinking that a tax

might act as a deterrent.* This discussion showed that the leading members north of Pennsylvania were either lukewarm toward the movement or were willing to abandon it if South Carolina would vote for the protective duties so much desired by New England. In the course of the debate, Madison said:

"It is to be hoped that by expressing a national disapprobation of this trade we may destroy it, and save ourselves from reproaches, and our posterity the imbecility ever attendant on a country filled with slaves. * * * If there is any one point in which it is clearly the policy of this nation, so far as we constitutionally can, to vary the practice obtaining under some of the state governments, it is this. * * * It is as much the interest of Georgia and South Carolina as of any in the Union. Every addition they receive to their number of slaves tends to weaken and render them less capable of self-defence. * * * It is a necessary duty of the general government to protect every part of the empire against danger, as well internal as external. Everything, therefore, which tends to increase this danger, though it may be a local affair, yet, if it involves national expense or safety, becomes a concern to every part of the Union, and is a proper subject for the consideration of those charged with the general administration of the government." †

Burke said that there was practically no difference between laying a specific duty of \$10 on slaves and collecting a 5 per cent. duty on them as merchandise, the amount of revenue being nearly the same.‡ But the Georgia and South Carolina members prevented action. Jackson, of Georgia, waxing hot in his speech, said

* *Annals of Congress*, 5th Congress, 3d session, pp. 1306-1312. See also Von Holst, *Constitutional and Political History*, vol. i., pp. 285-288, 322.

† *Annals of Congress*, 8th Congress, 2d session, p. 995; Tremaine, *Slavery in the District of Columbia*, p. 58 (*University of Nebraska Seminary Papers*).

* Gay, *Life of Madison*, p. 135; *Annals of Congress*, 1st Congress, 1st session, vol. i., p. 336; Benton, *Abridgment of Debates*, vol. i., p. 73.

† Gay, pp. 138-139; *Annals*, p. 340; Benton, p. 75.

‡ *Annals*, p. 341.

that, because Virginia had her full complement of slaves already, she ought not to shut the doors until her neighbors were supplied. He added that there was as much need of legislating for the white slaves, imported from all the jails of Europe, as for the blacks. Negroes are better off in a state of slavery, anyway, he argued, and the freed negroes of Maryland had become pickpockets and petty larceny villains. The slaves, said he, were not worse off in America, where their comforts were attended to, than in Africa, where prisoners of war were sold and parents traded off their own offspring.* This tirade had the desired effect, and, after some further debate, Parker withdrew his motion.†

On February 11, 1790, during the second session of the First Congress, the Quakers of Pennsylvania, Delaware and other States, presented a petition to abolish the slave trade,‡ and on the 12th Franklin, as President of the Pennsylvania Society for Promoting the Abolition of Slavery, sent in a memorial asking that Congress give serious consideration to the extension of freedom to negroes, and that Congress “step to the very verge of the power vested in you [it] for discouraging every species of traffic in the persons of our [their]

fellow-men.”* Franklin had previously formulated a plan for improving the condition of the free blacks, in which “he advised a committee of twenty-four members to be divided into four sub-committees; one, to superintend the general conduct of the free negroes, and give advice, protection, and aid to such as needed them; another, to place out young negroes as apprentices; another, to provide schools for the free blacks; and another, to provide employment for adults.”†

On March 17, after a report was received from the committee to which the petition was referred,‡ the matter was taken up for debate, and was discussed at great length and with much spirit on both sides. All the foremost orators among the Georgia and South Carolina representatives — Smith, Jackson, Baldwin, Burke, and Tucker — participated in the debate, probably with a view to increasing their popularity among their constituents at home in the face of a new election. They sought to have the House declare that the prayer for abolition was a prayer for unconstitutional action, and interspersed their arguments with taunts. Smith and

* *Annals of Congress*, p. 1187; Benton, vol. i., p. 207. Though the memorial was signed by Franklin, Curtis (*Constitutional History*, vol. ii., p. 235) doubts that he wrote it, as it contains a reading of the Constitution that he would hardly have incorporated himself, or even have adopted, had his attention been directed to it.

† Parton, *Life of Franklin*, vol. ii., p. 604.

‡ For which see *American State Papers, Miscellaneous*, vol. i., p. 12.

* Schouler, *United States*, vol. i., p. 159.

† McMaster, vol. i., pp. 552-555.

‡ *Annals of Congress*, 1st Congress, 2d session, vol. ii., p. 1182; Benton, *Abridgment of Debates*, vol. i., p. 201.

Jackson, after exhausting their arguments against the bill, fell to abusing the Quakers, their religion and their morals, denouncing them as British spies and enemies of freedom.* Even Franklin came in for his share of abuse.†

Madison said that "the true policy of the Southern members was to have let the affair proceed with as little noise as possible, and to have made use of the occasion to obtain, along with an assertion of the powers of Congress, a recognition of the restraints imposed by the Constitution."‡ This in effect was done at the end, but not before two months had passed, during which the more violent of the Southern members rid their minds of their sentiments on the subject. So absurd were some of the arguments advanced that the longer

the subject was discussed, the more widespread and earnest became the opposition. As Madison said, if the slave-holders had been wise they would have remained silent regarding the subject;* but neither the hot-headed Southerners nor those favoring the abolition of slavery were willing to drop the topic. The former could not see the wisdom of "laying low," being sure that an exposure of the true character of slavery would result in its destruction, and that to make a strenuous defence was to court a still more determined opposition and consequent exposure. Far from being conciliatory, the advocates of slavery contended that a general emancipation by law would never be submitted to without a civil war;† then they fell to abusing the Quakers, attempting to show that the Bible not only permitted slavery, but commended it, "from Genesis to Revelation." They said that Christ had permitted it and that the Apostles had never preached against it; that if slavery "were an evil it was one for which there was no remedy," for which reason the North had acquiesced in it; and that a compromise was made on both sides—"we took each other with our mutual bad habits and respective evils for better, for worse; the Northern States adopted us with our slaves, and we adopted them with their Quakers."‡ They

*Curtis (*Constitutional History*, vol. ii., pp. 239-243) gives a long extract from Smith's speech.

† The last paper which Dr. Franklin wrote was on the subject of slavery. "Mr. Jackson, a member of Congress, from Georgia had made a speech in favor of negro slavery. An ingenious parody of this speech was composed by Dr. Franklin, in which Sidi Mehemet Ibrahim is represented as speaking, in the Divan of Algiers, against granting the petition of a sect called *Erika*, who prayed for the abolition of piracy and slavery as being unjust. In this pretended speech of Ibrahim, the same principles were advanced, and the same arguments were used in defence of plundering and enslaving Europeans, that had been urged by Mr. Jackson, in justification of negro slavery. It is dated only twenty-four days before the author's decease; and, as a specimen of happy conception and sound reasoning, it is not inferior to any of his writings."—Sparks, *Life of Franklin*, p. 527: also *Franklin's Works*, vol. ii., pp. 517-521: Weld, *Life of Franklin*, p. 539; Parton, *Life of Franklin*, vol. ii., pp. 606-614.

‡ Gay, *Life of Madison*, p. 162.

* Benton, *Abridgment of Debates*, vol. i., pp. 201-202.

† *Ibid*, vol. i., p. 208.

‡ Speech of Smith, March 17, *Ibid*, vol. i., p. 232.

declared further that the Quakers were meddling with something that was none of their business and exciting the slaves to insurrection. Madison said, however, that the memorial of the Quakers was "well worthy of consideration" and, while he admitted that the slave trade could not be stopped for twenty years, he held that "there was a variety of ways by which [Congress] could countenance the abolition, and regulations might be made in relation to the introduction [of slavery] into the new States to be formed out of the western territory." * Gerry said that the fact "that we have a right to regulate this business is as clear as that we have any right whatever; nor has the contrary been shown by anybody who has spoken on the occasion." Computing the value of the slaves at \$10,000,000, he said that Congress had the right "to purchase the whole of them, and their resources in the western territory might furnish them with the means," but added that "he did not intend to suggest a measure of this kind; he only instanced these particulars to show that Congress certainly had a right to intermeddle in the business." †

Gerry, Sherman, and Sedgwick, of New England, Boudinot, Scott, and Hartley, of Pennsylvania, and Madi-

son, Page, and Parker joined forces to secure decent respect for decent petitions. The committee had reported seven resolutions,* moderately expressed, and aimed, in the form of general propositions, to distinguish the lawful limitations upon Congressional action regarding the matter; for it was undeniable that, as concerned slavery, the Constitution left something to the discretion of Congress. On the anti-slavery side a few manly speeches were made, particularly by Scott, Vining, and Boudinot. The defence of the Quakers devolved chiefly upon Boudinot. He vindicated their patriotism at the time of the Revolution and brought to the attention of the House their humanity and kindness toward prisoners of war. The Georgia and South Carolina members fought the resolutions step by step, and finally the courage of the emancipators began to ooze out. Three of the resolutions denied to Congress the right to interfere with slavery in certain cases, and these were acceptable to the pro-slavery men; three others affirmed the right, within constitutional limitations, to tax and regulate the traffic in slaves; but the seventh—most objectionable resolution—promised, on behalf of the Union, to promote the humane objects of the memorials in every constitutional way. When the North Carolina delegation arrived,

* *Annals of Congress*, vol. ii., p. 1204; Benton, *Abridgment*, vol. i., p. 211.

† *Annals of Congress*, vol. ii., p. 1234; Gay, *Life of Madison*, pp. 156-168.

* These are given in Curtis, *Constitutional History*, vol. ii., pp. 238-239; *Annals of Congress*, vol. ii., pp. 1414-1415.

the pro-slavery men could muster sufficient strength to strike out this last resolution, together with the fourth, which asserted the right of Congress to levy a tax of \$10 apiece on imported slaves. Ames would have dropped the subject then and there, but at Madison's suggestion the four resolutions finally adopted were entered upon the House Journal.* They read as follows:

"1. That the migration or importation of such persons as any of the States now existing shall think proper to admit, cannot be prohibited by Congress prior to the year 1808.

"2. That Congress have no authority to interfere in the emancipation of slaves, or in the treatment of them within any of the States, it remaining that the several States alone to provide any regulations therein which humanity and true policy may require.

"3. That Congress have authority to restrain the citizens of the United States from carrying on the African trade for the purpose of supplying foreigners with slaves, and of providing, by proper regulations, for the humane treatment during their passage of slaves imported by the said citizens into the States admitting such importation.

"4. That Congress have also authority to prohibit foreigners from fitting out vessels in any port of the United States for transporting persons from Africa to any foreign port."†

* Schouler, *United States*, vol. i., pp. 161-162.

† *Annals of Congress*, 1st Congress, pp. 1451-1474. The reports of the special committee and the Committee of the Whole are in *Journal of the House of Representatives*, 1st Congress, 2d session; MacDonald, *Select Documents*, pp. 58-60. The report of the special committee is in *Annals of Congress*, 1st Congress, 2d session, vol. ii., pp. 1414-1415; *American State Papers*, Miscellaneous, vol. i., p. 12. On the entire subject, see also Von Holst, *Constitutional and Political History*, vol. i., pp. 89-94; Wilson, *Rise and Fall of Slave Power*, vol. i., pp. 61-67; W. F. Poole, *Anti-Slavery Opinions before the Year 1800*; J. C. Hurd, *The Law of Freedom and Bondage in the United States*; J. R. Brackett, *The Negro in Maryland*;

On February 5, 1793, a law for the extradition of fugitive slaves was passed* by a vote of 48 to 7, and was signed by the President on February 12. It provided that a master or his agent might regain possession of a fugitive slave by taking him before a Federal judge or local magistrate, who, without a jury and by verbal testimony or affidavits, was to determine the question of ownership.† The circumstances leading to the enactment of this law deserve notice. A free negro had been kidnapped by three white men in Pennsylvania and taken to Virginia. The governor of Pennsylvania demanded the surrender of the kidnappers, but Virginia refused on the ground that there was no law carrying into effect the constitutional provision for the surrender of fugitives from justice. The governor of Pennsylvania submitted the facts to Washington, who brought them to the attention of Congress.‡

Almost immediately after the second session of the Fifth Congress had assembled in November of 1797,

J. S. Bassett, *History of Slavery in the State of North Carolina*, in *J. H. U. Studies*, series xvii., nos. vii.-viii.; F. A. Ogg, *Jay's Treaty and the Slavery Interests of the United States*, in *Report of the American Historical Association for 1901*, p. 273; Benton, *Abridgment of Debates*, vol. i., pp. 229-238.

* *U. S. Statutes-at-Large*, vol. i., p. 302; *Annals of Congress*, 2d Congress, 2d session, pp. 1414-1415, 860-861; Benton, *Abridgment of Debates*, vol. i., p. 417.

† Bassett, *Federalist System*, p. 189; Von Holst, *Constitutional and Political History*, vol. i., pp. 312-314.

‡ Rhodes, *United States*, vol. i., p. 24.

came an outbreak of sectional feeling over an anti-slavery petition drawn up by the Quakers, and introduced by Gallatin on the last day of November.* Under the fugitive slave law of 1793 (which remained unaltered until 1850) many abuses and much injustice had occurred. Under its provisions every slave owner had power to seize, hold and drag back every runaway slave to the servitude from which he had fled, and this summary power soon resulted in the employment of gangs of kidnappers who infested Northern towns, seized every negro on whom they could lay their hands, irrespective of whether they were still bondsmen or had been freed voluntarily or by purchase, and sent them South to be auctioned off to the highest bidder. So bold did the kidnappers become that Delaware petitioned the Federal Government to interfere; but for three years the petition remained on the table, and then (on December 29, 1796, and again on January 18, 1797) it was decided not to interfere.†

When the petition had been read, Gallatin moved it to a second reading, but immediately a fierce debate began, not on Gallatin's motion, but on the question of slavery itself. The Quakers were attacked as war-makers seeking to breed dissension and stir

up the slaves to insurrection.* This complaint being made of a State law, Congress had nothing to do with it.†

Bayard, however, defended the Quakers, and maintained that it was not a question of freeing the slaves, but of reducing freemen to slavery — a matter in which Congress certainly did have jurisdiction. He said that the Constitution forbade the States to make *ex post facto* laws,‡ and a long discussion followed on the meaning of *ex post facto*. The petition was then read and committed; when the committee reported, the House gave the petitioners permission to take back their paper.||

During the first session of the Sixth Congress, which began December 2, 1799, the slavery issue was again debated. On January 2, 1800, some free negroes of Philadelphia presented a petition asking that the slave-trade and the fugitive slave laws be revised, and that measures be enacted looking to the emancipation of the negroes still in bondage.§ A motion was made to refer the petition to the committee on slave-trade with foreign parts, but immediately objection was made that the petition could not be entertained. In the House the matter had been

* Speech of Macon, *Annals*, p. 661; Benton, pp. 184-185.

† Speech of Sewall, *Annals*, p. 661; Benton, p. 184.

‡ *Annals*, p. 664; Benton, p. 185.

|| *Annals*, pp. 1032-1033; McMaster, vol. ii., pp. 358-360.

§ For text, see *Annals of Congress*, 6th Congress, 1st session, pp. 229-230; Benton, *Abridgment of Debates*, vol. ii., pp. 436-437.

* *Annals of Congress*, 5th Congress, 2d session, vol. i., pp. 656-658; Benton, *Abridgment of Debates*, vol. ii., pp. 182-183.

† McMaster, vol. ii., pp. 357-358.

argued several times before, and it had been decided that nothing could be done. Yet these petitions continued to come, not only from white people, but also from the negroes themselves. It was claimed that the petition to emancipate was a harbinger of a great loss of property and of a social revolution entailing a loss of thousands of lives. San Domingo was held up as an example of the sad results of emancipation. It was even charged that emissaries had been sent among the negroes to tamper with

them and excite the spirit of insurrection, and that France had sent agents to the country to see whether the negroes would constitute a good asset for future use.* Other speeches in a similar vein were made, and the motion to refer the petition to the committee was withdrawn. On January 3, by a vote of 85 to 1, the House resolved that petitions inviting Congress to consider and legislate on subjects precluded by the Constitution should receive "no encouragement or countenance."†

CHAPTER XI.

1794-1797.

MONROE AND PINCKNEY IN FRANCE.

Monroe sent to France — French complaints — Monroe introduced to the French Convention — Washington annoyed by fervor of Monroe's reception — American complaints sent to Monroe — His letter to the Committee of Public Safety — The repeal of French decrees — Monroe misinformed as to the purpose of Jay's mission — Correspondence between Jay and Monroe — Jay's refusal of a copy of the British treaty — One obtained by Adet — His complaints — Monroe's quandary — The French decree of July 2, 1796 — Spanish complaints — Monroe's recall — Pinckney's appointment — Directory's refusal to recognize Pinckney — Monroe's farewell to the Directory — Pinckney's orders to leave France — Monroe's *View of the Conduct of the Executive*.

In 1789 Gouverneur Morris had gone to France on private business, and, feeling that Louis XVI. had given the United States support in its struggle for independence which it would be ungrateful to forget, had been active in behalf of the French king during the French Revolution. In 1792 his ministry to France was confirmed by a small margin and at the very time he received his credentials Morris was aiding the king's escape from Paris. He had especially

offended the French and American republicans by referring to the American government as "my court," and was altogether unsatisfactory to the ruling powers in France. As Morris was entirely out of sympathy with the revolutionary party, the French government seized the opportunity when Genêt's recall

* See the speeches of Mr. Rutledge and others, *Annals of Congress*, 6th Congress, 1st session, vol. i., pp. 230-245; Benton, *Abridgment of Debates*, vol. ii., pp. 437-444.

† McMaster, vol. ii., pp. 454-456.

was demanded, to ask that Morris be likewise recalled by the United States.* Having appointed Jay, a Federalist, to the British mission, Washington decided to appoint a man of the opposite party to the French mission. He well knew Mr. Monroe's proclivities, but as it was desirable to select a man who would be entirely acceptable to the French government, Monroe's nomination was unanimously approved by the Senate.† It was hoped that he would be successful in his efforts to settle the differences existing between the two countries which were beginning to threaten serious consequences. Indeed, the objects of his extraordinary mission had now assumed vital importance. "The surreptitious attempts of France to throw this country into a war had been but a part of the injuries committed by her. The long continued and distressing embargo on the vessels in the port of Bordeaux, illegal captures by French ships of war and privateers, the seizure and forced sales of cargoes and their appropriation to public use without payment, the non-performance of contracts made by the agents of the government for supplies, the oppressions exercised by their courts of admiralty, the

taking all foreign trade from individuals into the hand of government, successive orders and decrees contrary to treaty stipulations, [all these] were fast making up a catalogue of wrongs against our self-styled ally, that far overshadowed those which had so justly excited public indignation against Great Britain. Unless these could be redressed, war, submission to the will of France, or national disgrace or private ruin must follow."*

The French complaints may be grouped under two heads: those based upon the alleged infractions of the treaties of 1778 and the convention of 1788; and those arising from the provisions of the Jay treaty which were prejudicial to French interests. The French complained that the American courts took cognizance of prizes brought into American ports by French cruisers and privateers; but in every instance it was shown that the prize had been taken in American territorial waters or by a privateer fitted out in an American port. One prominent case was that of the ship *Cassius*, which originally had been armed at Philadelphia, sailed under another name, refitted in the West Indies, cruised under command of an American citizen, brought a prize into Philadelphia, and was there seized and her captain held. Another privateer, the *Vengeance*, was held and

* Gordy, *Political History*, vol. i., pp. 265-266; Sparks, *Gouverneur Morris*, vol. i., chaps. xx.-xxi., vol. ii., p. 61 *et seq.*

† Schouler, *United States*, vol. i., pp. 286-287, 332. See also *American State Papers, Foreign Relations*, vol. i., p. 463; D. C. Gilman, *Life of Monroe*, p. 37.

* Gibbs, *Administrations of Washington and Adams*, vol. i., p. 139.

tried, but finally released.* On the other hand, it was charged that British cruisers with their prizes were in some cases permitted to enter American ports, in direct contravention of Article XVII. of the treaty of commerce of 1778. The French claimed, moreover, that the United States had not faithfully observed the ninth and twelfth articles of the consular convention of 1788 granting jurisdiction to consuls in disputes between their own citizens and to captains the right to recover deserters from their vessels. Under the second heading the French complained that the list of contraband was increased when it should have been diminished. That list was, however, precisely that recognized by the law of nations, and its stipulations provided that provisions should be paid for when seized. Another count in the indictment was that under Jay's treaty the French could not sell their prizes in American ports, as they had formerly done and as they claimed the right to do under their treaty; but the Secretary of State showed that this was not a right, but merely a privilege, which had been temporarily accorded them. But the lack of ports for refitting their vessels and for the disposal of their prizes was severely felt by the French, and their complaints on this head were natural and reasonable.†

Monroe reached Paris in August of 1794, after the death of Robespierre, and found "our affairs * * * in the worst possible situation. The treaty between the two republics was violated. Our commerce was separated in every quarter, and in every article, even that of tobacco not excepted. Our seamen, taken on board our vessels, were often abused, generally imprisoned, and treated, in other respects, like the subjects of the powers at war with them." * On May 9, 1793, the French government had authorized ships of war and privateers "to seize and carry into ports of the republic merchant vessels which were loaded wholly or in part with provisions, being neutral property, bound to an enemy's port, or having on board merchandise belonging to an enemy." † On May 23 it was declared that this did not apply to the United States, but on July 27 another decree was passed which left the American commerce exposed to the provisions of the first act, in spite of the fact that the first decree violated a treaty between the United States and France.‡

In his instructions from Randolph, June 10, 1794, Monroe had been warned not to forget the dignity of the United States; || but, despite the

* *American State Papers, Foreign Relations*, vol. i., p. 694.

† *Ibid*, vol. i., pp. 244, 377, 749.

‡ Lyman, *Diplomacy of the United States*, p. 326.

|| *American State Papers, Foreign Relations*, vol. i., pp. 668-669; Gilman, *Life of Monroe*, pp. 44-45.

* *Report of the American Historical Association* for 1903, vol. ii., pp. 417, 779, 842, 858, 907, 976, 1019.

† *Ibid*, pp. 681, 747, 824, 862, 902, 911, 934, 1006, 1066.

existing situation, hardly had he arrived, when (on August 14) he wrote directly to the Convention requesting that a day be designated when "the representative of their ally, and sister republic" should be received and acknowledged.* The Convention decided that he should be "introduced into its bosom" the very next day.† Upon his introduction, Monroe delivered to the President of that convention his credentials, two letters addressed by the Secretary of State to the Committee of Public Safety, and a written address‡ in which he likened the French government to that of the United States, since both rested on the same basis and cherished the same principles — "the equal and inalienable rights of man."|| This was translated into French, read by the Secretary of the Convention, and had its sentiments loudly applauded. Merlin de Douai, the President of the Convention, then poured forth his sentiments, hinting that a fraternity, closer than a mere diplomatic alliance, ought to unite the two nations against "an impious coalition of tyrants." To this succeeded the accolade, or national embrace, which Merlin unctuously gave Monroe.§ So fervent was

Monroe in his declaration of friendship that it was decreed by the Convention that the flags of the two republics should be united and suspended in the Assembly Chamber.* Monroe thereupon presented to the Convention the flag of the United States, which he requested that body to accept as a proof of the sensibility with which the United States received every mark of friendship from France.†

When Washington learned the particulars of this reception he was considerably annoyed, for he had expected that Monroe's credentials would be presented and accepted with no special demonstrations. The progress of Jay's negotiations also determined him to keep French relations within neutral lines. But by parading resolutions of sympathy for France recently passed by Congress, Monroe had very unwisely added to the warmth of the official occasion and heightened the impression of an international alliance. Washington therefore wrote to Monroe in a tone of mild censure, informing him that demonstrations less conspicuous had been expected; that the warmth of some of his expressions was not warranted by his instructions; that the documents sent with the resolution of sympathy should have been regarded, so far as the President was concerned, only in the light of an execution of a task imposed upon him by Congress;

* *American State Papers, Foreign Relations*, vol. i., p. 673.

† Gilman, *Life of Monroe*, p. 45.

‡ The letters and address are in *American State Papers, Foreign Relations*, vol. i., pp. 673-674. Gilman (pp. 46-48) gives the address.

|| *American State Papers, Foreign Relations*, vol. i., pp. 674; 688.

§ Schouler, *United States*, vol. i., p. 334. See also Adams, *Lives of Madison and Monroe*, pp. 249-250.

* Gilman, *Life of Monroe*, pp. 49-50.

† McMaster, *United States*, vol. ii., p. 257.

and that, in order to avoid giving offence to England and Spain, he should in future cultivate the friendship of France with zeal, but without unnecessary *éclat*.*

Long before Monroe received this communication from Philadelphia, he had been best with petitions from Americans seeking his aid in collecting indemnities for injuries sustained at the hands of the French. Some had been injured by the embargo at Bordeaux, where 100 vessels had been detained for more than a year. Some claimed compensation for supplies sold to the government of San Domingo. Others had received injuries, not merely in violation of the general principles of international law, but of specific articles of the treaties of 1778. On September 3, 1794, Monroe wrote a letter to the Committee of Public Safety, in which, after stating that specific articles of the treaties of 1778 had been violated, he said:

"It is my duty to observe to you that I am under no instruction to complain of or request the repeal of the decree authorizing a departure from the 23d and 24th articles of the treaty of amity and commerce [which secured the neutral right of carrying enemy goods and enemy commerce]; on the contrary, I well know that if, upon consideration, after the experiment made, you should be of opinion that it produces any solid benefit to the republic, the American government and my countrymen in general, [you] will

not only hear the departure with patience, but with pleasure."*

Monroe knew that the administration was particularly anxious to maintain strict neutrality between France and Great Britain and that lending money to the French republic would constitute a violation of such neutrality. Nevertheless, on November 13, when a committee of the French government asked him whether the United States would advance funds to France, he replied that, while he had no authority to answer the question, he was sure that the United States would do so, if it be in her power. He stated also that in his opinion the United States would be more likely to do so if France would promise not to conclude peace with either England or Spain so long as the American grievances against them remained unsettled.† In a letter (December 2) to the Secretary of State, Monroe said that France was so partial to the United States that, even if she could decide whether the United States should go to war with England, she "would leave us to act in that respect according to our own wishes. And I am likewise persuaded, if we do embark in the war, that they will see us through it; and have some hope, if we do not, and especially if we aid them in the article of money, that they will support, as far as they will be able,

* Schouler, *United States*, vol. i., p. 335; and Randolph's letter quoted in Gilman, *Life of Monroe*, pp. 53-55. Gilman, however, says that Monroe acted according to his understanding of his instructions and quotes a letter from Monroe (*Life of Monroe*, p. 53).

* *American State Papers, Foreign Relations*, vol. i., p. 677.

† *Ibid*, vol. i., pp. 685-687.

our demands upon Spain and England." *

At length the French government removed all impediments to American commerce, so far as the repeal of decrees could effect it, though this application might have shown Monroe that the French government, in the midst of a costly war, was too distressed for money to render likely a speedy adjustment of our claims for commercial depredations. Everything that Monroe sought, save the concession that American vessels should protect the goods of enemies, was willingly yielded in form. But by January, 1795, even the "free ship, free goods" stipulation had been agreed to by France as the United States desired, and Monroe thought he had accomplished all the principal objects embodied in his official instructions; for the President had forbidden him to make a new treaty with France without explicit orders, directing him to say that Fauchet had never proposed a revised treaty of commerce. Nevertheless, when it became known that the obnoxious decrees had been repealed and that France was evincing a decided disposition to assist us, the American government, though pleased that our claims were being pushed by Monroe, became silent and inattentive. This was probably due to the fact that Washington had received word of the treaty concluded by Jay, that the receipt of that document had

been delayed many months, and that Washington entertained grave doubts of the ultimate fate of the disappointing treaty during the many weeks he kept its contents secret.*

The French government watched closely the negotiations in progress in London between Jay and the British government, and endeavored to secure from Monroe all the information he possessed on the subject.† In his instructions, Monroe had been authorized to say that Jay was attempting merely to obtain "compensation for our plundered property and restitution of the posts," and he was to state that Jay was "positively forbidden to weaken the engagements between America and France." Randolph had said further in this letter of instructions: "You will let it be seen that in case of war with any nation on earth, we shall consider France as our first and natural ally. You may dwell upon the sense we entertain of past services, and for the more recent interposition on our behalf with the Dey of Algiers." A caution that our confidence in the French Republic be expressed "without betraying the most remote mark of undue complaisance," was the only important restriction upon Monroe's behavior.‡ Accordingly, Monroe assured the French government that Jay's mission "was

* Schouler, *United States*, vol. i., pp. 336-337.

† See the letter from the Committee of Public Safety, quoted in Gilman, *Life of Monroe*, pp. 57-58.

‡ Schouler, *United States*, vol. i., p. 333.

* *American State Papers, Foreign Relations*, vol. i., p. 688.

strictly limited to demanding reparation for injuries." It certainly was a strange spectacle to see the American government misinforming its representative and placing him in such an embarrassing position before the French court; for, if Monroe could not be trusted to carry out the policy of the administration, he should never have been appointed, and if he were implicitly trusted, he should have been informed fully concerning all matters coming within the scope of his duties.

When Monroe learned that Jay had actually negotiated a treaty, he notified the French Committee of Public Safety (December 27) and was importuned to disclose its contents, even before it had been submitted to the American government.* He promised the Committee a copy of the treaty as soon as he received one; for he believed, if the United States kept the confidence of the French government, there was "no service within its power that the French Republic would not render to us."† He later said:

"I had reason to believe that it contemplated to take under its care, and to provide for, our protection against Algiers; for the expulsion of the British from the western posts, and the establishment of our right with Spain to the free navigation of the Mississippi, to be executed in the mode we should prefer, and upon terms perfectly easy to us; terms, in short, which sought only the aid of our credit to obtain a loan from our banks for an inconsiderable sum, to be laid

out in the purchase of provisions within our own country, and to be reimbursed, if possible, by themselves. But, by that intelligence, this disposition was checked. * * * I am still inclined to believe that, if the arrangement with England, or the negotiation with Spain, should fail, it is possible * * * to accomplish the whole through the means of this Government."*

Jay had promised to give Monroe information regarding the principal features of the treaty, and when Monroe received word that the treaty had been concluded, he sent a confidential messenger to Jay to receive whatever information the latter could impart, saying: "It is necessary, however, to observe that as nothing will satisfy this government but a copy of the instrument itself, and which, as our ally, it thinks itself entitled to, so it will be useless for me to make to it any new communication short of that."† On February 5, 1795, however, Jay wrote Monroe as follows:

"You must be sensible that the United States, as a free and independent nation, have an unquestionable right to make any pacific arrangements with other powers which mutual convenience may dictate, provided those arrangements do not contradict or oppugn their prior engagements with other States. Whether this adjustment was consistent with our treaty with France, struck me as being the only question which could demand or receive the consideration of that republic, and I thought it due to the friendship subsisting between the two countries that the French government should have, without delay, the most perfect satisfaction on that head."‡

He said he had already given what he deemed to be satisfactory information on that point, quoted the clause

* Adams, *Lives of Madison and Monroe*, p. 250; McMaster, vol. ii., p. 258.

† *American State Papers, Foreign Relations*, vol. i., p. 695.

* *American State Papers, Foreign Relations*, vol. i., p. 695.

† *Ibid.*, vol. i., p. 517.

‡ *Ibid.*, vol. i., p. 517.

in the treaty which provided that nothing in that instrument should be construed as breaking existing engagements with other foreign countries, and continued:

"Considering that events favorable to our country could not fail to give you pleasure, I did intend to communicate to you concisely some of the most interesting particulars of this treaty, but in the most perfect confidence, as that instrument has not yet been ratified, nor received the ultimate forms necessary to give it validity. As further questions respecting part of it may yet arise, and give occasion to further discussions and negotiations, so that, if finally concluded at all, it may then be different from what it is now, the impropriety of making it public, at present, is palpable and obvious. * * * It does not belong to ministers who negotiate treaties to publish them, even when perfected, much less treaties not yet completed and remaining open to alteration or rejection. Such acts belong exclusively to the government who form them. I cannot but flatter myself that the French government is too enlightened and reasonable to expect that any consideration ought to induce me to overleap the bounds of my authority, or to be negligent of the respect which is due to the United States. That respect, and my obligations to observe it, will not permit me to give, without the permission of their government, a copy of the instrument in question to any person, or for any purpose; and by no means for the purpose of being submitted to the consideration and judgment of the councils of a foreign nation, however friendly." *

Monroe did not concur in Jay's opinion, for he had "gained such an insight into their councils" that he was satisfied that "all our great material objections, so far as they were connected with this republic, were more easily to be removed by a frank and liberal deportment than a cool and reserved one." † Nor could he

"see any condescension in such a line of conduct. * * * On the contrary, between nations allied as we are, I deem it the most magnanimous as well as the soundest policy." When at last he received an outline of the treaty, he at once submitted it to the Committee of Public Safety. On September 10, 1795, before he knew that the treaty had been ratified, he wrote to the Department of State that he believed, by a "timely and suitable attempt," he could engage the aid of France "in support of our claims upon England, * * * upon fair and honorable terms." He saw no objections to such an arrangement, saying:

"If we were at war with England, none would be urged by any one. * * * If then, remaining at peace, another country is willing to give us the fortune of its arms, in support of our claims against a common enemy, ought we to decline an arrangement, which would be adopted in war, especially when it is considered that peace is the lot we prefer, and that our success depends upon its success? * * * But can we accomplish what we wish by the fortunes of France, by any kind of negotiation we can set on foot, without any effort of our own; and if any such effort is to be made, of what kind must it be? To this I can give no answer, other than by referring you to my former letters on that head. * * * But to secure success by embarking this government with full zeal in our behalf, and striking terror into England, it will be necessary to lay hold of her property within the United States, take the posts, and even invade Canada. This would not only secure to us completely our claims upon Britain, and especially if we likewise cut up her trade by privateers; but, by making a decisive and powerful diversion in favor of France, promote, and very essentially, a general peace." *

Meanwhile, early in June, 1795, accounts had reached Paris that the

* *American State Papers, Foreign Relations*, vol. i., p. 517.

† See his letters of March 17, April 14 and May 17, 1795, in *ibid.*, vol. i., p. 700 *et seq.*

* *American State Papers, Foreign Relations*, vol. i., p. 721.

British government had revived its order for seizing provision vessels, and in August, in the midst of the panic, came American newspapers which revealed the Jay treaty in full. Utterly disgusted at what appeared to be treachery on the part of the United States toward an ancient ally and benefactor, France no longer confided in the friendly expressions of the United States; though, on learning of the great opposition to the treaty in America, she refrained from ungentle remonstrance. Soon after the treaty was ratified by the Senate, a copy of the treaty was communicated to Adet, the French minister in the United States. Adet immediately complained of the seizure of the goods of an enemy in American vessels and of the contraband clauses in the treaty as tending to favor England as a belligerent before France. He complained, too, that the hospitality guaranteed to British warships was inconsistent with earlier restrictions placed upon the enemies of France by our French treaties. In reply, Randolph defended the construction placed by the American government upon the French treaties, and claimed that every neutral nation possessed the right to enter into commercial arrangements with one belligerent without consulting the rights of another. Randolph then instructed Monroe to adopt a similar line of argument at Paris and to make the treaty as palatable to France as possible.*

On September 12, 1795, Secretary of State Pickering wrote to Monroe that the treaty had been ratified by the President, and gave him the reasons for so doing in order that they might be laid before the French government.* Monroe received the letter on December 1 and was in a quandary as to the proper course of action. An ardent believer in "liberty, equality and fraternity," and deeply in sympathy with the French in their struggle against the oppression of the king, how could he inform the government that his country had made a treaty with a country founded on diametrically opposite principles? With a passionate desire for the success of France, feeling that she and the United States alone represented the cause of true liberty, Monroe had confided in France and had done all he could to prepare her to fight the battles of the United States (which he was positive would soon have to be fought by some one). He had been instructed to maintain the dignity of his own government, but was he not doing so when he cultivated the friendship of the only other nation founded on the doctrine of the inalienable rights of men? They were allies, not only by treaty, but also in spirit, for each was engaged in a holy crusade against oppression. In such a spirit Monroe entered upon his work. But when he was confronted with the fact that Jay was sent to

* Schouler, *United States*, vol. i., p. 338.

* *American State Papers, Foreign Relations*, vol. i., pp. 596-598.

England to do more than demand reparation for injuries; when he learned that a deliberate treaty had been made and ratified by the United States; when he realized that he had been deceived himself and had unwittingly been deceiving the French government as to Jay's mission,—he could not see that the fault lay in his own enthusiasm and his inability to coldly and impartially view his instructions and the relations existing between the United States and England, on the one hand, and the United States and France, on the other. He believed that the American government had deceived him so that, through him, it might deceive the French government, and that his appointment was merely a link in the chain which would bind the United States to the side of “kings against the people.” He raked his mind for an answer to the question, What was he to do? Would it be better for him to withdraw without making explanations; should he withdraw and explain to the public the reasons; or should he stay in his present position and promote the interests of the country as best he could, according to his own lights? He resolved upon the last course, and the more confidently because he believed that, sooner or later, the administration would recall him, and thus give him additional data by which he could place his conduct before the public in a more favorable

light.* Therefore, instead of using the arguments contained in Pickering's letter, as he was expected to do, Monroe, by way of mollifying at once the nation to whose court he had been accredited, kept the dispatch to himself until the middle of the following February.†

On February 15, 1796, M. De la Croix, the French minister of foreign affairs, notified Monroe that the French government had determined upon the course it would pursue with regard to the treaty between Great Britain and the United States. He said that the French would consider the alliance between France and the United States at an end the moment the Jay treaty was ratified, and intimated that the French government would send a special envoy to America to announce this fact to the United States government.‡ Shortly afterward (March 11) he presented to Monroe a summary of the French grievances against the United States, among which the Jay treaty occupied the most prominent place. He charged the United States with having intentionally sacrificed its connection with France by entering into an agreement with England regarding commerce and navigation.|| Monroe

* Gordy, *Political History*, vol. i., pp. 280-281.

† Schouler, *United States*, vol. i., p. 340.

‡ Bassett, *The Federalist System*, pp. 212-214, 219; *American State Papers, Foreign Relations*, vol. i., p. 730.

|| *American State Papers, Foreign Relations*, vol. i., pp. 732-733.

denied these allegations, fully refuting the complaints contained in the exposition.* Presuming that the House of Representatives would refuse to pass the laws necessary to put the Jay treaty into operation, the French government did not press the subject; but when news arrived that the treaty had been ratified and that the House of Representatives had passed laws putting it into effect, the French government immediately instituted retaliatory measures. On June 25, 1796, De la Croix inquired of Monroe whether the news contained in the American gazettes to the effect that the House had put the Jay treaty into effect was true, adding, "After the Chamber of Representatives has given its consent to this treaty, we ought, no doubt, to consider it in full force; and as the state of things which results from it merits our profound attention, I wish to learn from you in what light we are to consider the event which the public papers announce, before I call the attention of the Directory to those consequences which ought especially to interest this republic." While Monroe could give no positive information regarding the matter, he doubted not that the intelligence was true. Thereupon, on July 2, 1796, the Directory issued a decree "that all neutral or allied powers shall, without delay, be notified, that the flag of the French republic will

treat neutral vessels, either as to confiscation, as to searches, or capture, in the same manner as they shall suffer the English to treat them."*

It was rumored that measures hostile to American commerce were contemplated by the French government. That he might ascertain the truth of these rumors, Secretary of State Pickens addressed a note to Adet, the French minister, inquiring whether the French government had issued any new decrees or regulations relative to the commerce of the United States, and if so, what they were. On July 14, 1796, Adet replied, declaring that he had no information relating to any orders which might have been given by the French government, or what orders had been issued to French ships respecting neutral vessels trading with their enemies.† It is probable that secret orders had been sent to the French ships in the West Indies to capture American vessels, for in the preceding June, a ship called the *Mount Vernon* was captured off the Capes of Delaware by a French privateer. This vessel was sold in Philadelphia to an English citizen, but, as she could not be registered in his name, she sailed under the registry of her former owner. A French privateer, *The Flying-Fish*, had been watching her and seized her before she was well out of the bay.

* *American State Papers, Foreign Relations*, vol. i., pp. 733-735; McMaster, vol. ii., pp. 287-288.

* *American State Papers, Foreign Relations*, vol. i., p. 741; *Annals of Congress*, 4th Congress, 2d session, p. 2769.

† McMaster, vol. ii., p. 313 *et seq.*

The incident caused considerable excitement before it was learned that the American registry of the boat was merely a fiction.*

In August, 1796, Spain concluded a treaty with France, and soon afterward began to complain at the British treaty as jeopardizing her interest as well as those of France. On this ground she refused to turn over the posts on the Mississippi, and furthermore endeavored to induce the Westerners to form an independent empire—a project which failed entirely.† France also urged Holland to aid her in defeating the British treaty, a thing Holland dared not refuse to do.

The administration had been sincerely anxious to adjust all disputes with France, and Monroe had been instructed to justify his government in relation to the treaty with England; but he did not approve the policy of the President with regard to France, thinking that she had just grounds for complaint, and consequently his conduct became quite unacceptable to the President.‡ Therefore, in order to insure an earnest and active representation of the true sentiments of the government, Wash-

ington determined to appoint a new envoy in Monroe's place, choosing Charles Cotesworth Pinckney for this mission. On August 22 Monroe was notified of his recall, and early in September General Pinckney embarked for France, where he arrived about December 1.*

Upon his arrival in Paris, Pinckney, in company with Monroe, waited upon the minister of foreign affairs and presented his credentials. They were laid before the Directory, and a few days later Monroe received word that the Directory would no longer recognize "a minister-plenipotentiary from the United States until after a reparation of grievances demanded of the American government, and which the French republic had a right to expect."† De la Croix said, however, "that this determination, which has become necessary, does not oppose the continuance of the affection between the French republic and the American people, which is grounded on former good offices and reciprocal interest; an affection which you have taken pleasure in cultivating, by all the means in your power." Hence Pinckney's position was most embarrassing, as the Directory refused to hold any com-

* See Hamilton's ed. of *Hamilton's Works*, vol. vi., p. 132.

† See Phelps, *Louisiana*, pp. 173-174.

‡ Washington said: "The truth is Mr. Monroe was cajoled, flattered, and made to believe strange things. In return he did, or was disposed to do, whatever was pleasant to that nation, reluctantly urging the rights of his own."—*Washington's Writings*, vol. xiii., p. 484.

* *American State Papers, Foreign Relations*, vol. i., pp. 741-742, and *ibid.*, pp. 559-579, for Pickering's letter of January 16, 1797, answering the French complaints.

† See Adams' message in *Richardson, Messages and Papers*, vol. i., p. 235; *American State Papers, Foreign Relations*, vol. i., p. 746 and vol. ii., p. 6; Schouler, *United States*, vol. i., pp. 358-359.

munication with him, and he did not know at what moment the police might order him to quit France.* Toward the close of December, Monroe took leave of the Directory, concluding his address as follows:

"I beg leave to make to you, citizen directors, my particular acknowledgments for the confidence and attention with which you have honored my mission during its continuance, and at the same time to assure you that, as I shall always take a deep and sincere interest in whatever concerns the prosperity and welfare of the French republic, so I shall never cease, in my retirement, to pay you, in return for the attention you have shown me, the only acceptable recompense to generous minds, the tribute of a grateful remembrance." †

In reply, the President of the Directory said:

"By presenting this day to the executive directory, your letters of recall, you offer a very strange spectacle to Europe. France, rich in her freedom, surrounded by the train of her victories, and strong in the esteem of her allies, will not stoop to calculate the consequences of the condescension of the *American government* to the wishes of its ancient tyrants. The French republic expects, however, that the successors of Columbus, Raleigh, and Penn. always proud of their liberty, will never forget that they owe it to France. They will weigh in their wisdom the magnanimous friendship of the French people, with the crafty caresses of perfidious men, who meditate to bring them again under their former yoke. Assure the *good people* of America, Mr. Minister, that, like them, we adore liberty; that they will always possess our esteem, and find in the French people that republican generosity which knows how to grant peace, as well as to cause its sovereignty to be respected.

"As for you, Mr. Minister-plenipotentiary, you have contended for principles; you have known the true interests of your country—depart with our regret; we restore, in you, a representative

to America; and we preserve the remembrance of the citizen whose personal qualities did honor to that title." *

On December 13 Pinckney wrote to De la Croix, inquiring whether he should leave France immediately or remain until he heard from the American government.† De la Croix replied that, as the Directory recognized no American minister, it was the desire of the French government that he should no longer remain in France.‡ Pinckney wished a written answer, but received none until February 3, 1797, when, elated by their victories in Italy, the Directory gave him written orders to quit the territories of the Republic, adding that he was liable to arrest if he stayed in Paris in violation of the law forbidding strangers to reside in France without letters of hospitality.¶ He therefore asked for his passports and immediately retired to Amsterdam, where he remained until joined by Marshall and Gerry who, after Adams became President, were joined with him as envoys extraordinary to the French republic.§

Upon his return to the United States, Monroe issued a pamphlet, setting forth his side of the proceedings, under the title *View of the Con-*

* *American State Papers, Foreign Relations*, vol. i., p. 747 and vol. ii., p. 161.

† *Ibid.*, vol. ii., pp. 6-7.

‡ *Ibid.*, p. 7.

§ *Ibid.*, p. 18.

§ McMaster, vol. ii., pp. 320-321; Gordy, *Political History*, vol. i., p. 290; Schouler, *United States*, vol. i., pp. 359-360.

* McMaster, vol. ii., pp. 319-320.

† *American State Papers, Foreign Relations*, vol. i., p. 747.

duct of the Executive in the Foreign Affairs of the United States, connected with the Mission to the French Republic, during the years 1794, 95 and 96. Regarding this *View*, Washington said:

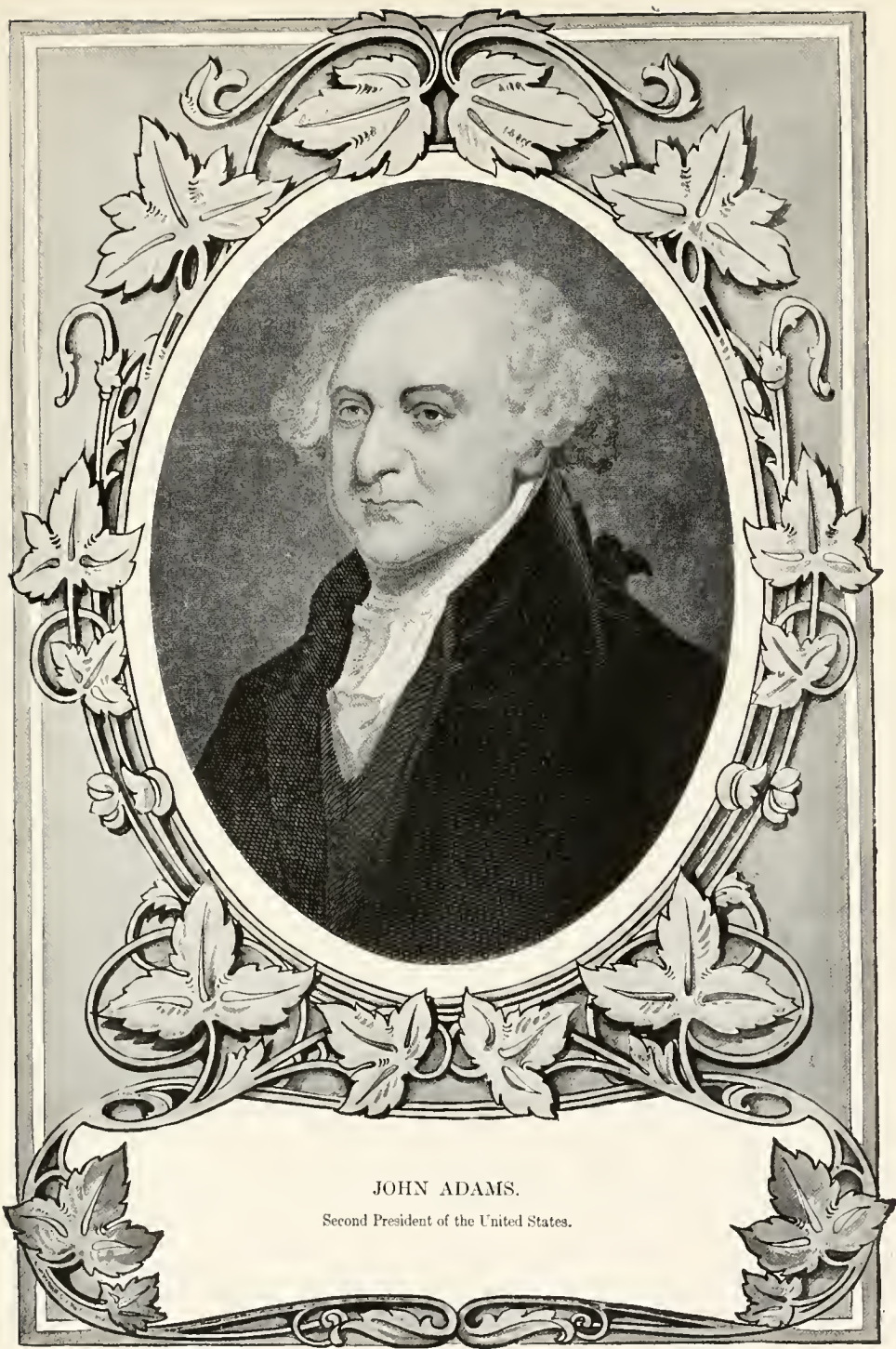
"As to the propriety of exposing to public view his [Monroe's] private instructions and correspondence with his own government, nothing needs be said; for I should suppose that the measure must be reprobated by the well-informed and intelligent of all nations, and not less by his abettors in this country, if they were not blinded by party views, and determined at all hazard to catch at anything, that in their opinion will promote them. The mischievous and dangerous tendency of such a practice is too glaring to require a comment." *

* Ford's ed. of *Washington's Writings*, vol. xiii., p. 451. See also Sparks' ed. of *Washington's Writings*, vol. x., pp. 226, 504; Gilman, *Life of Monroe*, pp. 65-73, 221-229; S. B. Washburn, *Foreign Relations of the United States*, p. 129 (1876); Rosenthal, *America and France*, p. 295. Among contemporary sketches of the progress of events as affecting the relations of United States and France are: William Duane, *History*

Perhaps the sharpest criticism of Monroe's conduct in France is contained in Washington's Farewell Address, in which we read:

"Constantly keeping in view that it is folly in one nation to look for disinterested favors from another; that it must pay with a portion of its independence for whatever it may accept under that character; that by such acceptance it may place itself in a condition of having given equivalents for nominal favors, and yet with being reproached with ingratitude for not giving more, there can be no greater error than to expect or calculate upon real favors from nation to nation. It is an illusion which experience must cure, which a just pride ought to discard."

of the French Revolution, with a Free Examination of the Dispute between the French and American Republics (Philadelphia, 1798); J. Dennis, *Address on the Origin, Progress, and Present State of French Aggression* (Philadelphia, 1798); Robert Walsh, *Enquiry with the Past and Present Relations of France and the United States* (London, 1811); Camillus, *History of French Influence in the United States* (Philadelphia, 1812).



JOHN ADAMS.

Second President of the United States.

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CHAPTER XII.

1797-1798.

EARLY POLITICAL EVENTS OF ADAMS' ADMINISTRATION: THE EXTRA SESSION OF 1797.

Adams' inauguration — His retention of Washington's Cabinet — Federalists' disposition to favor war with France — Convening of Congress in special session — The President's speech — Party divisions in Congress — Debate over answer to the President's speech — Appointment of envoys to France — Acts passed — Debate on foreign ministers — Gallatin's speech — Bitterness of party feeling — Jefferson's letter to Mazzei — The Hamilton scandal — The Blount conspiracy and impeachment trial — Yellow fever epidemic at Philadelphia — Porcupine's dispute with Yrujo — His trial and acquittal — Mercantile disaster — Coinage acts — The Mint — The Lyon-Griswold fracas — Philadelphia again visited by yellow fever.

On March 4, 1797, the second President of the United States was inaugurated. Washington had come into office as the unanimous choice of the people, and to a great extent had been free from party distinctions. But Adams entered office as the candidate of a single party, and during his whole term was made to realize that his actions and the measures adopted by his party were closely watched by a well-organized and powerful opposition. He was closely watched also by political rivals in his own party; and the obstinacy of his character did not tend to bind the factions of his party closer together, but rather to alienate the confidence and respect of the party which had elected him. It is not necessary to discuss here whether Adams or his political rivals adopted a proper course of conduct; but the fact remains that, before two years of his term had elapsed, he had broken with the most powerful members of his own party, and was compelled also to reorganize his Cabinet

completely. Undoubtedly he was a man of wonderful ability and uprightness of character, but even his admirers admitted that he was too quick, too impatient of opposition, and highly inflammable. It is difficult to get a just estimate of his character either from the various biographies, the newspapers of the times, or the more extended histories of the period. Those who criticize Adams, speak of his fickleness and irritability, his obstinacy, his inconsistency and his inordinate vanity; they say that his administration was devoid of rule or precise object. His principal biographer, C. F. Adams, on the other hand, asserts that he was "a wise, an energetic, an independent, and an honest president;" that he was badly used by the Federalists, to say the least,—especially by Alexander Hamilton—and that he was betrayed by his own party.*

* See also Morse's opinion, *John Adams*, p. 265 *et seq.*

After Jefferson had been installed as President of the Senate, the House assembled in the chamber of the Representatives where Adams was inaugurated, the oath being administered by Chief Justice Ellsworth of the Supreme Court.* He then delivered his inaugural address.† At the beginning of his administration, Adams made the mistake of retaining Washington's Cabinet. A more unsuitable set of co-workers under such a President as Adams could hardly have been conceived. They were men without a public following; "unreliable gaugers as a whole of the public will and narrow interpreters of public duty;" and all looking for inspiration to Hamilton, of all men the one whom Adams especially disliked. The Cabinet did not regard the new President as the one to whom they owed their places and whom they must faithfully serve, but rather as an erratic old man, whom they must pamper while they ran the government to suit themselves,—or rather, to suit the dictates of Hamilton. It is difficult to see why Adams retained these men, unless he did not desire to make a change under existing conditions or was reluctant to set the first example of retiring high counsellors with the chief executive who

had summoned them.* But it was not long before irreconcilable opinions forced a readjustment in the membership of the Cabinet, which will be explained later.

The state of foreign affairs at this time was perplexing to the administration. Pinckney had been driven out of France, American merchantmen had been plundered by French vessels, and relations with other countries were unsatisfactory.

When intelligence of Pinckney's failure reached America, the Federalists became exceedingly angry, and would have severed all relations with France, even if such action resulted in war. The majority of the Cabinet favored this course, but both Hamilton and Adams opposed it, as the United States was unprepared for war. There was no navy; the treasury was in no condition to withstand the additional strain; and Adams and Hamilton realized that such a step would throw the country into close dependence on England, which in itself was dangerous. They therefore preferred to settle the matter by further negotiations, and while these were in progress, to place the country in a better state of defence. Hamilton argued that the decision of the French Directory not to receive an American minister until all grievances were redressed, did not mean that a special mission would not be received. If, on the other hand,

* Schouler, *United States*, vol. i., pp. 354-355.

† Richardson, *Messages and Papers*, vol. i., pp. 228-232; John Adams, *Works*, vol. ix., pp. 107-111; *Annals of Congress*, 4th Congress, 2d session, pp. 1582-1586; Benton, *Abridgment of Debates*, vol. i., pp. 11-13.

* Schouler, *United States*, vol. i., p. 357.

France should refuse to receive a special mission, the people would be convinced that every means to preserve peace had been employed. Pickering, to enkindle the passions of Americans against France, would have rushed into print with an inflammable statement of the whole affair; and even after Adams had plainly disapproved of such a course, Pickering appealed to Hamilton, who likewise discouraged such a project. Steadily operating on the recalcitrant members of the Cabinet, Hamilton finally brought them to his way of thinking, so that when Adams requested written opinions from his Cabinet, Pickering and Wolcott advised further negotiation, though the former deprecated all "fraternizing words." McHenry acquiesced in Hamilton's views; and Lee declared himself not only in favor of a new mission, but of doing as well by France as by England—even to the extent, if necessary, of relinquishing the "free ships free goods" contention, which had now become so vexatious to France. Adams and Hamilton carried their point in this respect, but could not persuade the Cabinet to permit the appointment of a Republican to the new mission.* Hamilton and Adams thought three envoys should be sent, one of whom should be a prominent Republican, either

Jefferson or Madison.* Wolcott wrote that, if Hamilton insisted on a mission, "either nothing will be done, or your opinion will prevail."† But he would not consent that either Jefferson or Madison should be a member of the embassy.

When a complete report was received from Pinckney, Adams, believing that immediate action should be taken, issued a proclamation on March 25, convening Congress in extra session May 15, 1797.‡ On May 16, after Congress had assembled, he delivered an address in which he gave a brief statement of the condition of foreign relations, particularly those with France, saying:

"After the President of the United States received information that the French Government had expressed serious discontents at some proceedings of the Government of these States said to affect the interests of France, he thought it expedient to send to that country a new minister fully instructed to enter on such amicable discussions and to give such candid explanations as might happily remove the discontents and suspicions of the French Government and vindicate the conduct of the United States. For this purpose he selected from his fellow-citizens a character, whose integrity, talents, experience, and services had placed him in the rank of the most esteemed and respected in the nation. The direct object of his mission was expressed in his letter of credence to the French Republic, being 'to maintain that good understanding which from the commencement of the alliance had subsisted between the two nations, and to efface unfavorable impressions, banish suspicions, and restore the cordiality which was at once the evidence and

* Schouler, *United States*, vol. i., p. 361; Morse, *John Adams*, p. 277.

† Gibbs, *Administrations of Washington and Adams*, vol. i., p. 448.

‡ Richardson, *Messages and Papers*, vol. i., pp. 232-233; John Adams, *Works*, vol. ix., pp. 111-119.

* Hamilton's ed. of *Hamilton's Works*, vol. vi., pp. 213-225, 229, 234, 238-243; John Adams, *Works*, vol. i., p. 510 and vol. viii., pp. 535-543; Schouler, *United States*, vol. i., p. 362.

pledge of a friendly union.' And his instructions were to the same effect, 'faithfully to represent the disposition of the Government and people of the United States (their disposition being one), to remove jealousies and obviate complaints by shewing that they were groundless, to restore that mutual confidence which had been so unfortunately and injuriously impaired, and to explain the relative interests of both countries and the real sentiments of his own.'

"A minister thus specially commissioned it was expected would have proved the instrument of restoring mutual confidence between the two Republics. The first step of the French Government corresponded with that expectation. A few days before his arrival at Paris, the French minister of foreign relations informed the American minister then resident at Paris of the formalities to be observed by himself in taking leave, and by his successor preparatory to his reception. These formalities, they observed, and on the 9th of December presented officially to the minister of foreign relations, the one a copy of his letters of recall, the other a copy of his letters of credence.

"These were laid before the Executive Directory. Two days afterwards, the minister of foreign relations informed the recalled American minister that the Executive Directory had determined not to receive another minister plenipotentiary from the United States, until after the redress of grievances demanded of the American government, and which the French Republic had a right to expect from it. The American minister immediately endeavored to ascertain whether by refusing to receive him it was intended that he should retire from the territories of the French Republic, and verbal answers were given that such was the intention of the Directory. For his own justification he desired a written answer, but obtained none until toward the last of January, when, receiving notice in writing to quit the territories of the Republic, he proceeded to Amsterdam, where he proposed to wait for instructions from this Government. During his residence at Paris, cards of hospitality were refused him, and he was threatened with being subjected to the jurisdiction of the minister of police, but with becoming firmness he insisted on the protection of the law of nations due to him as the known minister of a foreign power. You will derive further information from his dispatches, which will be laid before you.

audience given to the late minister of the United States on his taking leave of the Executive Directory. The speech of the President discloses sentiments more alarming than the refusal of a minister because more dangerous to the independence and union, and at the same time marked with indignities toward the Government of the United States. It evinces a disposition to separate the people of the United States from the Government, to persuade them that they have different affections, principles, and interests from those of their fellow-citizens whom they themselves have chosen to manage their common concerns and thus to produce divisions fatal to our peace. Such attempts ought to be repelled with a decision which shall convince France and the world that we are not a degraded people, humiliated under a colonial spirit of fear and sense of inferiority, fitted to be the miserable instruments of foreign influence, and regardless of national honor, character, and interest.

* * * * *

"It is my sincere desire, and in this I presume I concur with you and with our constituents, to preserve peace and friendship with all nations; and believing that neither the honor nor the interest of the United States absolutely forbid the repetition of advances for securing these desirable objects with France, I shall institute a fresh attempt at negotiation, and shall not fail to promote and accelerate an accommodation on terms compatible with the rights, duties, interests, and honor of the nation. If we have committed errors, and these can be demonstrated, we shall be willing to correct them; if we have done injuries, we shall be willing on conviction to redress them; and equal measures of justice we have a right to expect from France and every other nation." *

There were now three groups in Congress. The first consisted of those extreme Federalists who desired war, led by William Smith and Harper, and supported by Secretaries Pick-

* Richardson. *Messages and Papers*, pp. 234-236; Benton, *Abridgment of Debates*, vol. ii., pp. 114-117; *Annals of Congress*, 5th Congress, 1st session, vol. i., pp. 54-59. See also the documents submitted in Benton, pp. 121-123; *Annals*, vol. ii., pp. 64-67 and vol. iii., pp. 3056-3094.

* * * * *

"With this conduct of the French Government it will be proper to take into view the public

ering and Wolcott.* The second group consisted of Republicans who asserted that the situation was not perilous, and that it was due entirely to Federalist mismanagement. The third group consisted of moderate men who usually acted with the Federalists. There was a decided Federalist majority in the Senate. Schnyler once again represented New York in place of Burr. Madison and Page, of Virginia, had retired from the House (the former having lately married); but with Giles and Nicholas still in their seats, and with Edward Rutledge and Gallatin rapidly becoming preëminent, the Republicans were ably led in that branch. The Federalists missed the eloquent Ames, who had been succeeded by Harrison Gray Otis. Some of the most capable of the Federalist leaders of the past had been transferred to the Senate. Smith, of South Carolina, who led the Federalists in the House, was an eloquent speaker, but not a man of broad views; and the same might be said of Harper and Otis. Smith was inclined to plunge the country into war, but Dayton, who had been re-elected Speaker, and the less implacable and more moderate men held the balance of power between the war party and the Republican opposition led by Gallatin. Hence Congress was in a position to support the measures recommended

by the President.* On May 23 the Senate returned a favorable answer,† but a long wrangle ensued in the House, which did not complete the answer until June 29. When the motion to reply was made and seconded, Matthew Lyon, of Vermont, moved that he be excused from taking part in the ceremony because he did not agree with the President or his policies; and as the resolutions made attendance obligatory, he wished the words “attended by the House” stricken out and the words “attended by such members as may think proper” substituted. He said that as a Republican he could not go through the ceremony of marching after the presiding officer to the President’s door, and that it aroused his indignation as well as that of his 80,000 constituents to hear of such distinctions in a Republican land.‡ In the course of the debate, after declaring that the insult to Pinckney was not so great as some believed, Nicholas, of Virginia, said:

“It might, perhaps, be the opinion of some members of the House, more particularly of strangers, that he was improperly influenced by party zeal in favor of the French. * * * Who is the man who has this proof? When he first came into that House, the French were embroiled with all their neighbors, who were en-

* Schouler, *United States*, vol. i., pp. 364-365; Fuller, *Speakers of the House*, pp. 26-27.

† Richardson, *Messages and Papers*, vol. i., pp. 239-242; *Annals of Congress*, 5th Congress, 1st session, pp. 12-14; Benton, *Abridgment of Debates*, vol. ii., pp. 117-118.

‡ *Annals of Congress*, 5th Congress, 1st session, vol. i., pp. 234-235; Benton, *Abridgment*, vol. ii., p. 142; McMaster, vol. ii., pp. 327-329.

* Gibbs, *Administrations of Washington and Adams*, vol. i., pp. 465, 502-517; Hamilton’s ed. of *Hamilton’s Works*, vol. vi., pp. 216, 221-225.

deavoring to tear them to pieces. He knew what had been the situation of this country when engaged in a similar cause, and was anxious for their success. Was there not cause for anxiety, when a nation, contending for the right of self-government, was thus attacked? *Especially when it was well known that if the powers engaged against France had proved successful, this country would have been their next object?* Had they not the strongest proofs (even the declarations of one of [the British colonial] governors) that it was the intention of England to declare war against America, in case of the successful termination of the war against France?" *

The Federalists declared that France was angry, not over any particular article of the treaty, but because the United States had made *any* treaty with Great Britain. R. G. Harper, of South Carolina, declared that France was endeavoring "to effect by force and aggression that which she had attempted in vain by four years of intriguing and insidious policy"—to put this country in a position where she would be compelled to choose between war with France and war with Great Britain.† Nevertheless the House overwhelmingly voted to send an answer, the vote standing 62 to 36.‡ The President was assured that the sentiments of the Legislature agreed with his own regarding points of importance to which he had called their attention.||

* *Annals of Congress*, 5th Congress, 1st session, vol. i., pp. 72-73; Benton, *Abridgment of Debates*, vol. ii., pp. 125-126.

† See *Annals of Congress*, 5th Congress, 1st session, vol. i., pp. 169-193.

‡ For the debates in full, see *Annals of Congress*, pp. 67-234; Benton, *Abridgment*, vol. ii., pp. 123-142; for a resumé see Stevens, *Albert Gallatin*, pp. 137-141.

|| Richardson, *Messages and Papers*, vol. i., pp. 242-244. See also Benton, *Abridgment*, vol. ii., pp. 143-144; *Annals*, pp. 236-238.

After hearing the message and returning answers thereto, the House assented to Adams' proposal to renew negotiations, and upon his nomination three ambassadors were appointed.* The envoys selected were General Pinckney, John Marshall, and Elbridge Gerry.† They were instructed to procure peace by any means not incompatible with the faith of the United States, but they were to impair no national engagements nor to surrender any American rights.‡

* Adams first nominated Pinckney, John Marshall and Francis Dana, but, Dana declining to serve, Elbridge Gerry was substituted. See Richardson, *Messages and Papers*, vol. i., p. 245. See also Ford's ed. of *Jefferson's Writings*, vol. vii., p. 132; John Adams, *Works*, vol. i., p. 510; vol. viii., p. 456; vol. ix., p. 150; Morse, *John Adams*, pp. 280-281; *American State Papers, Foreign Relations*, vol. ii., p. 19; A. B. Magruder, *Life of Marshall*, p. 101.

† Mr. Gibbs (vol. i., p. 519) calls attention to the fact that up to this time no personal collisions had taken place between the President and his Cabinet. "None of the causes which afterwards interrupted the harmony between them existed. On the part of the secretaries there was perfect good-will towards the chief magistrate, and a sincere disposition to render his administration successful. * * * It has been intimated that the desire of the secretaries improperly to control the President on this occasion was the origin of their dissensions. The assertion is untrue. In regard to Mr. Gerry's nomination, though it shook the confidence of those officers in Mr. Adams' discretion, it produced no personal ill-feeling; nor did they otherwise attempt to direct him than by withholding an approbation they could not give." See also Lodge, *Alexander Hamilton*, pp. 203-204.

‡ In a letter dated June 21, 1797, urging Gerry to accept the nomination, Jefferson said: "Peace is undoubtedly at present the first object of our nation. Interest and honor are also national considerations. But interest, duly weighed, is in favor of peace even at the expense of spoliations past and future; and honor cannot now be an object. The insults and injuries committed on

The House then went into Committee of the Whole, and though various resolutions to comply with the measures suggested by the President were introduced, but few were adopted. Acts were passed prohibiting American citizens from privateering against a nation in amity with the United States (act of June 14, 1797); forbidding the export of arms and ammunition and encouraging their import (act of June 14, 1797); appropriating \$115,000 for the further fortification of American harbors (act of June 23, 1797); apportioning 80,000 militia among the States, so that the troops would be ready to march at a moments's notice (act of June 24, 1797); authorizing the completion, equipment and manning of the three new frigates, *United States*, *Constitution* and *Constellation*; providing for the registration of American ships; and imposing a duty on stamped vellum, parchment and paper (act of July 6, 1797) and an additional duty on salt (act of July 8, 1797.) But so unpopular were then

us by both the belligerent parties, from the beginning of 1793 to this day, and still continuing, cannot now be wiped off by engaging in war with one of them." He furthermore says: "Be assured of this, my dear Sir, that if we engage in a war during our present passions, & our present weakness in some quarters, that our Union runs the greatest risk of not coming out of that war in the shape in which it enters it. My reliance for our preservation is in your acceptance of this mission."—Ford's ed. of *Jefferson's Writings*, vol. vii., pp. 149–150; Morse, *Thomas Jefferson*, p. 182. See also Parton, *Life of Thomas Jefferson*, pp. 541–542. See also John Adams, *Works*, vol. viii., p. 549; King, *Life and Correspondence of Rufus King*, vol. ii., p. 193.

all schemes of internal taxation by the Federal government that the operation of the stamp act was postponed until January, 1798 (see act of July 6, 1797), and again, by the act of December 15, 1797, until June, 1798. By the act of July 8, 1797, a new loan of \$800,000 was authorized, the rate of interest not to exceed 6 per cent.*

The Republicans opposed most of these measures, not only because of their warlike nature, but also because they tended to increase the expenditures of the government. They considered every measure, not from the standpoint of expediency, but from its dangerous possibility of being used as a precedent in undermining the liberties of the people. This was clearly shown in the debate during the regular session of Congress on the appropriation of money to support foreign ministers. Instead of considering the question on its merits, discussion centered on the point of cost—whether the usefulness of these ministers would or would not justify the expense. In opposing the appropriation on January 18, 1798, Nicholas "thought it necessary to take a view of this subject, not only from the [consideration of] increase of expense, but from a variety of other considerations," conceiving it to be

* Schouler, *United States*, vol. i., pp. 366–367. See also Bolles, *Financial History*, p. 113 *et seq.* For debates, see *Annals of Congress*, 1st Congress, 1st session, vol. i., pp. 18–20, 34–36, 239–331, 336–447; Benton, *Abridgment of Debates*, vol. ii., pp. 144–165.

"a duty they owed to themselves and their constituents, as well to secure liberty as to perpetuate the Constitution itself, that the President, who had the power of making appointments, should be kept from extending this power beyond what the nature and wants of the government absolutely required.* On March 1 Gallatin declared that the House might lawfully refuse to make appropriations for what it deemed unworthy objects. James A. Bayard had said that the executive was the weakest part of the government and therefore was most likely to be encroached upon. In reply, Gallatin said:

"To such doctrines avowed on this floor, to such systems as the plan of government which the late Secretary of the Treasury (Mr. Hamilton) had proposed in the convention, may perhaps be ascribed the belief in a part of the community, the belief which was yesterday represented as highly criminal, that there exists in America a monarchio-aristocratic faction who would wish to impose upon us the substance of the British government."†

In this speech he summed up the charges brought by the Federalists against the Republicans and stated the attitude of his own party, as follows:

"If we complain of the prodigality of a branch of the administration, or wish to control it by refusing to appropriate all the money which is asked, we are stigmatized as disorganizers; if we oppose the growth of systems of taxation, we are charged with a design of subverting the constitution and of making a revolution; if we attempt to check the extension of our political connections with European nations, we are branded with

the epithet of Jacobins. Revolutions and Jacobinism do not flow from that line of policy we wish to see adopted. They belong exclusively to the system we resist; they are its last stage, the last page in the book of the history of governments under its influence."*

In the same debate Harper declared:

"It is my firm and most deliberate opinion that the amendment now under consideration to refuse appropriations for the ministers to Portugal and Prussia, and the principle to which it belongs, lead directly to the introduction of anarchy and revolution in the country, and if not steadily opposed must sooner or later produce that effect."

It was only natural, therefore, that the Republicans should underestimate the need of increased taxes and that the Federalists should overestimate it. The one party was willing to embarrass the government in the interests of liberty, while the other was willing to place unnecessary burdens on the people for the sake of order and good government.

Furthermore, the depredations of the French upon American merchant vessels and the efforts of France to induce the United States to make common cause with her against Great Britain, were gradually driving into a compact party those citizens who utterly distrusted France and her policy and who regarded only the injuries we had suffered from her, as contrasted with those citizens who held that the Jay treaty had wronged France and that she should therefore be conciliated. Even Jefferson, who was quick to discern the signs of the

* *Annals of Congress*, 5th Congress, 1st session, vol. i., p. 849.

† *Ibid.*, p. 1138.

* *Annals*, pp. 1138-1139.

times and who had no especial love for Napoleon, was constrained to express a desire that the United States be divorced from both France and England in all but commercial arrangements. He said: "I can scarcely withhold myself from joining in the wish of Silas Deane, that there were an ocean of fire between us and the Old World." As a result of the extra session there was much bitter feeling among the party leaders. Men who had been intimate friends all their lives would now cross the streets to avoid meeting, or would turn their heads away when passing one another. Adams had failed to inspire confidence, for he was neither amenable to the schemes of the Hamiltonian Federalists nor favorable to the measures of the Republicans. Hence the opposition papers, which at first had courted him, now began to twit him with being a President of three votes. The chief Cabinet officers, no longer restraining their conduct by due decorum, criticised the President and his appointments with licentious freedom.* Jefferson was then in a position where he could watch every move of the Federalists without himself joining in the play, and he had already begun to mould the opposing elements into a well-defined party, with himself as its accepted leader. The friendship existing between him and the President at the outset of the new term had caused the Federalists con-

siderable uneasiness, but a circumstance was now brought to light which not only cooled the friendly intercourse between the two, but gave the Federalists an opportunity to check Jefferson's rising popularity.

On April 24, 1796, Jefferson had written a letter to Philip Mazzei, a Florentine, who then lived near Monticello and with whom he had become intimate. In this letter, which was concerned chiefly with private affairs, Jefferson expressed himself rather unguardedly on matters of state. Mazzei translated into Italian the portions of the letter relating to politics, sending a copy of his translation to a Florentine newspaper. In time this paper reached the *Moniteur*, the official organ of the French Directory at Paris, which, in turn, translated and published the letter in French. The *Moniteur* soon found its way to the United States, where the letter was retranslated into English, published first in the *New York Minerva* and then by all the Federalist newspapers. The objectionable passage in the letter read as follows:

"The aspect of our politics has wonderfully changed since you left us. In place of that noble love of liberty and republican government which carried us triumphantly thro' the war, an Anglican monarchical, and aristocratical party has sprung up, whose avowed object is to draw over us the substance, as they have already done the forms, of the British government. The main body of our citizens, however, remain true to their republican principles; the whole landed interest is republican, and so is a great mass of talents. Against us are the Executive, the Judiciary, two out of three branches of the legislature, all the officers of the government, all who want to be officers, all timid men who prefer the calm of

* Schouler, *United States*, vol. i., pp. 370-371.

despotism to the boisterous sea of liberty, British merchants and Americans trading on British capital, speculators and holders in the banks and public funds, a contrivance invented for the purpose of corruption, and for assimilating us in all things to the rotten as well as the sound parts of the British model. It would give you a fever were I to name to you the apostates who have gone over to these heresies, men who were Samsons in the field, and Solomons in the council, but who have had their heads shorn by the harlot England. In short, we are likely to preserve the liberty we have obtained, only by unremitting labors and perils. But we shall preserve them; and our mass of weight and wealth on the good side is so great, as to leave no danger that force will ever be attempted against us. We have only to wake and snap the Lilliputian cords with which they have been entangling us during the first sleep which succeeded our labors.”*

But when this letter reached the United States, its form was entirely different. Phrases had been changed, whole sentences rearranged, and new meanings given to words; in fact the letter was so garbled as to leave little semblance to the original.† Of course the Federalists knew nothing of this, and cared less, so long as it gave them a good pretext for renewing their attacks upon the French party in the United States. They were the more elated as the letter, containing expres-

sions hostile to the government, had emanated from no less a personage than the Vice-President himself, perhaps the foremost champion of the French cause in America.* As a result, Jefferson was vigorously assailed in the Federalist press, and it was declared that if a private person had written such a libel on his country it might have been overlooked, but to have such a communication come from a Vice-President was treason, and that he ought to be impeached.† But Congress had other things to do, and the impeachment cry went unheeded.

This letter raised considerable furor and was the subject of many editorials from Republican and Federalist editors, but it did not arouse nearly as much excitement as the publication of some of Hamilton's letters. Some years prior to this time, a man named Clingman had been arrested for attempting illegally to collect a debt due from the United States. He asked to see Speaker Muhlenberg, and told the latter that his partner, James Reynolds, and Alexander Hamilton were also implicated, and that Reynolds could still further damage Hamilton's reputation. Muhlenberg imparted this information to Abraham Venable, a Representative, and to Monroe, and the three promised Clingman freedom if he would tell all he knew. But on being set free,

* Ford's ed. of *Jefferson's Writings*, vol. vii., pp. 75-77. Mr. Tucker (vol. i., pp. 519-528) undertakes an elaborate and studied defence of the passage above quoted from the letter to Mazzei; with what success the student may judge by a careful perusal. (See also, vol. ii., p. 25.) On the other hand, Chief Justice Marshall, in a note at the end of his *Life of Washington*, bestows a searching and severe examination upon the Mazzei letter. See also Morse, *Thomas Jefferson*, pp. 182-187; Parton, *Life of Thomas Jefferson*, pp. 533-534.

† See Jefferson's letter to Madison, August 3, 1797, in Ford's ed. of *Jefferson's Writings*, vol. vii., pp. 164-167.

* McMaster, vol. ii., p. 325.

† As to the effect of this letter on the relations existing between Washington and Jefferson, see Schouler, *United States*, vol. i., pp. 372-373.

Clingman fled, leaving Monroe and Muhlenberg to obtain the information from Mrs. Reynolds, who produced two notes of a disagreeable nature from Hamilton. The substance of these conversations was put into writing, signed by Clingman, and then laid before Hamilton. He confessed to be the author of the notes and admitted that for several months past he had carried on an amour with Mrs. Reynolds, with the husband's connivance, but he said the husband had blackmailed him out of hundreds of dollars, until at last he had refused to pay any more.* Reynolds then threatened to use his letters to revenge himself. Hamilton asked Monroe and the others for copies of the papers in their possession, and requested also that they be kept from their owners lest they be put to a malicious use. These copies were sent, Monroe promising that Hamilton's request would be "most strictly complied with." But in 1794, when Monroe went to France, he gave these letters into the possession of "a respectable character in Virginia," evidently for safe keeping. In 1797 a *History of the United States for 1796* appeared, of which the author was James T. Callender. In numbers 5 and 6 of this *History* appeared copies of those documents which Monroe had promised Hamilton would never be put to a mischievous use, and which Monroe had given to the "respectable Virginian," who, McMaster says, was

undoubtedly Jefferson.* Monroe was then asked to explain matters, which he declined to do; and as one of these letters intimated that Hamilton was guilty of misconduct in a high place of trust, Hamilton caused his correspondence with Mrs. Reynolds to be published with a plain statement of his crime.† Undoubtedly this mortifying disclosure struck like cold steel at Hamilton's proud spirit, and all the more so because he could not confess without condemning himself "for the pang he had inflicted on a bosom eminently entitled to all his gratitude, fidelity and love." Though the Federalist idol, long ranked with Washington for spotlessness of life, had now been hurled from his pedestal, yet the public, like her who had suffered most, readily condoned the offence, and even Hamilton's opponents soon dropped the story.‡

This caused great joy to the Republicans, but they were soon cast into gloom by the disclosures regarding a conspiracy on the part of a Republican Senator. On July 3, 1797, President Adams sent a mes-

* McMaster, vol. ii., pp. 336-338. Hildreth (*History of the United States*, vol. v., p. 111) also suspects Jefferson.

† Bassett, *Federalist System*, pp. 216-217. This pamphlet by Hamilton, known as the "Reynolds pamphlet," is called *Observations on Certain Documents, Contained in The History, etc., in which the Charge is Fully Refuted, Written by Himself* (Philadelphia, 1797). It was reprinted by the Hamilton Club in 1865 and is included in Lodge's ed. of Hamilton's *Works*. Callender replied with more virulence than ever in *Sketches of the History of America* (Philadelphia, 1798).

‡ Schouler, *United States*, vol. i., pp. 375-376.

* Parton, *Life of Thomas Jefferson*, p. 535 et seq.

sage to Congress* in which he transmitted some reports and documents from the Secretary of State and the Secretary of War, showing that certain citizens of the United States planned to invade Spanish territory.† A man by the name of Chisholm had proposed to Robert Liston, the English minister to the United States, that an expedition be sent against the Floridas, but Liston objected, on the ground that it would violate the neutral rights of the United States. Chisholm finally obtained permission to go to England to lay the matter before the British Government, and was furnished with letters to the authorities of that nation. But he could not keep the secret, and, before sailing, explained the whole matter to James Carey, of Tennessee, an interpreter to the Cherokee Indians. Carey mentioned the matter to Senator William Blount, of Tennessee, who at first made light of the matter. But on April 21, 1797, he wrote to Carey saying that the expedition would probably take place in the fall, and, if the Indians would aid, it would be attended with success. Blount said that in all likelihood he himself would lead a part of the British forces. He cautioned Carey, however, against allowing the matter to become public.‡

But Carey consulted his friends, who persuaded him that it was his duty to the country to lay the facts before the public. Accordingly he sent copies of the letter to the newspapers, also laying the matter before the Secretary of War and the Secretary of State.*

Liston being then requested to explain, he made an evasive reply, which, while admitting the essential facts in the case, failed to mention any names. He said that not only had he discouraged the plot, but the home government had discountenanced it as unfriendly to American neutrality.† The following day copies of these various letters, as has already been stated, were laid before Congress by President Adams, and immediately a committee was appointed by the Senate to investigate Blount's conduct and report as to the proper measures for dealing with the situation. On July 6 a messenger (Sitgreaves) came from the House with the information that the Attorney-General had rendered an opinion that the Carey letter constituted a crime, under which the writer, if he were Blount, was liable to impeachment.‡ The Republicans, under the leadership of Gallatin, claimed that the House could not impeach a Senator on the ground that he was neither the President, Vice-President, nor a civil officer of the United States, as provided

* Richardson, *Messages and Papers*, vol. i., p. 248; John Adams, *Works*, vol. ix., p. 154.

† These documents will be found in *American State Papers, Foreign Relations*, vol. ii., pp. 66-77.

‡ The letter in full is in *Annals of Congress*, 5th Congress, 1st session, vol. i., pp. 41-43.

* McMaster, vol. ii., pp. 339-341.

† Schouler, *United States*, vol. i., p. 378.

‡ *Annals of Congress*, 5th Congress, 1st session, vol. i., p. 449.

by the fourth section of the second article of the Constitution. Moreover, his offence was not committed in the line of his official duty.* The Federalists maintained, however, that under such an interpretation the Supreme Court justices could not be removed for making war on the United States, because they were not civil officers and war was not in the line of their official duties. After much debate, the House impeached Blount of high crimes and misdemeanors. On July 8 the Senate acquiescing in his impeachment, Blount was expelled. He was then placed under heavy bond and was released pending trial.†

The case was not tried until nearly a year had elapsed, and it was not until February 7, 1798, that the House managers presented the impeachment papers to the Senate.‡ When the case was called in December, 1798, Blount did not appear, but his counsel, Jared Ingersoll and A. J. Dallas, entered a plea that the Senate had no jurisdiction because Blount was not a "civil officer," contending, also, that as Blount had been expelled, he was no longer a Senator, and therefore could not be punished after he was out of office for acts committed while in

office. The Senate then decided that "this Court ought not to hold jurisdiction of the said impeachment, and that the said impeachment is dismissed." Thereupon Blount was discharged.*

Shortly after Congress adjourned in July, 1797, Philadelphia was again afflicted with a yellow fever epidemic. Governor Mifflin attempted to confine the disease to one section of the city by barricading the streets, cutting off communication between the wharves and the houses of the infected district, ordering yellow flags to be hung from houses harboring stricken persons, etc. Large fines were to be imposed on those disobeying the orders contained in this proclamation. Half of the fine imposed was to be given to the informer. The medical inspectors became all powerful, and those who refused to admit them or hindered their putting up flags, or those who took down these flags, could be sent for thirty days to the hospital on State Island. Thus the inspectors were possessed of an instrument for satisfying private grudges or of extorting money from the wealthy, with the result that hundreds of citizens fled to the country. Meanwhile the doctors began to wrangle over the causes of the epidemic. One school, led by William Currie, claiming that the fever was imported and contagious, but another, led by Ben-

* See Gallatin's speech in *Annals of Congress*, 5th Congress, 1st session, vol. i., pp. 450-452.

† *Annals of Congress*, 5th Congress, 1st session, vol. i., pp. 39-44, 463-466.

‡ The articles of impeachment are in *Annals of Congress*, 5th Congress, 2d session, vol. i., pp. 498-502, 948-951. For the debate in the House in connection with their preparation and presentation, see *Annals*, pp. 672-679, 809-810, 820-821, 837-839, 953-955, 969, 1143 and vol. ii., p. 1376.

* Wharton, *State Trials*, pp. 200-321; *Annals of Congress*, 5th Congress, 3d session, vol. ii., pp. 2244-2415.

jamin Rush, declared it was not, and that it came chiefly from filthy streets and loathsome alleys. While the doctors were wrangling, the fever patients perished. In September the death rate rose to 68 in two days. The city was almost deserted, the public offices were closed, no church services were held, and many business houses moved to other cities. Cool weather, however, checked the disease, and in November it had disappeared.*

Before the fever had subsided, Peter Porcupine was engaged in a newspaper quarrel with the doctors, but he soon dropped this dispute in order to devote his entire attention to another with a personage of no small importance. The Spanish court had sent over one Don Carlos Martinez de Yrujo as minister to the United States, the purpose of his mission being to protest against the treaty with Great Britain, chiefly because the goods of belligerents would not be covered with a neutral flag; because hemp, cordage, rosin and tar, sails, ship timber and copper in sheets were contraband of war; and because the treaty gave England the right to navigate the Mississippi. It was evident that these complaints were instigated by the French Directory, and news from Natchez seemed to confirm the suspicion. Governor Gayoso began to place obstacles in the way of determining the boundary line; he would

not surrender the posts north of 31° north latitude, in February had strengthened the Natchez and Walnut Hills garrisons, had fortified St. Louis early in March, and sent armed companies above the mouth of the Ohio. Pickering made a report on this Spanish demonstration, which the House printed. To offset this, Yrujo claimed that the British still entertained similar designs. He took exception also to the partial and undiplomatic manner in which Pickering had questioned Liston and to the crude accusations made against Spain by Pickering in his official report. This reply was published in the newspapers by the Republicans, but Pickering retorted upon Yrujo, going to the press (as Yrujo had done) and sending copies of his letters to his political friends that they might enjoy with him the gratification he felt in thus belaboring the Spanish ambassador. Yrujo's reply was now attacked by Porcupine in his *Gazette*. The latter said the Spanish king was a degenerate who lacked the common virtues of a man, and that his minister in America was of the same character. The latter was called also a frivolous half Don and half Sans Culotte. This was more than Yrujo could stand, and he complained of these slanderous articles to the Secretary of State. Porcupine was then held for trial in the Federal District Court before Judge Peters, but Yrujo later induced the Pennsylvania authorities to institute proceedings against Porcupine, so

* McMaster, vol. ii., pp. 344-350.

that the case might be brought before Judge Thomas McKean, whose daughter Yrujo was soon to marry. When the trial took place McKean made a most excellent charge to the jury, but, forgetting his position as judge, he allowed his bias to carry him to excess. He became an advocate, and in his harangue uttered a libel against the prisoner at the bar as vile as that of which the prisoner himself had been accused. The jury therefore returned the bill without convicting.*

The bitterness of party politics had by no means diminished when the second session of Congress convened on November 22, 1797. In addition to the fact that no word had been received from the envoys to France, Congress was discouraged also by the general condition of the country, for mercantile disaster had followed hard upon the pestilence at Philadelphia. The people were beginning to reap the legitimate fruit of speculation, overtrading and foolish ventures, which, together with French and English spoliations and the commercial distress of England, combined to overthrow some American capitalists hitherto considered impregnable. Robert Morris had been one of the greatest speculators in land the country had seen, he owning vast tracts in six different States and in the District of Columbia. This land was

wholly unproductive, and the taxes sapped his declining resources so rapidly that ultimately he was sent to a debtor's prison. His ruin hastened the collapse of other houses. Credit sank, business suffered a relapse, prices fell, failures became frequent, labor and house-rent underwent great reduction, and many formerly opulent citizens were reduced to poverty. On January 18, 1798, therefore, in a special message,* Adams called the attention of Congress to the defects in the law of May 28, 1796, for the relief of persons imprisoned for debt; and to relieve the distress of the mercantile community, Congress took the subject of a bankrupt bill under consideration, but without taking any definite action.†

Meanwhile, on December 13, 1797, another matter was reported to the House which caused a long debate. This was concerned with the coinage. The coinage act of February 9, 1793, provided that three years after the first gold and silver coins had been struck at the mint, foreign coins, with the exception of the Spanish milled dollar and parts thereof, should cease to be legal tender and should not be taken in payment of taxes and customs duties. The coinage of silver at the mint began on October 15, 1794,‡ and

* Richardson, *Messages and Papers*, vol. i., p. 261.

† Schouler, *United States*, vol. i., p. 381.

‡ The first silver bullion received at the mint was deposited July 18, 1794, by the Bank of Maryland and consisted of coins of France amounting to \$80,715.73½. The first deposit of gold

* McMaster, vol. ii., pp. 350-353; Hildreth, *History of the United States*, vol. v., pp. 164-173; Schouler, *United States*, vol. i., pp. 378-380.

the coinage of gold on July 31, 1795.* Accordingly on July 22, 1797, President Adams issued a proclamation† stating that on October 15 of that year all foreign silver coins, except Spanish milled dollars and parts thereof, would “cease to pass current as money within the United States and to be legal tender for the payment of any debts or demands,” and that the same would apply to all foreign gold coins after July 31, 1798. Millions of dollars in silver coins were thus no longer legal tender, and the gold coins were to meet a similar fate in a few months. The price of Spanish silver dollars and American silver now rose so high that general ruin seemed imminent, and, in order to prevent this, Secretary of the Treasury Wolcott ordered the custom-house officers to take French crowns at the same value as did the Bank.‡ As this was illegal, the matter was taken up by the House, and the committee to which it was referred rendered a report approving the Secretary’s action. It

was made by Moses Brown, of Boston, on February 12, 1795, ingots worth \$2,276.72 being then deposited.—Watson, *History of American Coinage*, p. 66; Evans, *History of the Mint*, p. 14. The gross and standard weights of gold and silver bullion deposited at the mint up to December 21, 1796, will be found in *American State Papers, Finance*, vol. i., pp. 476-477.

* The silver dollar weighed 416 grains, 1,485 parts pure to 179 parts alloy; thus its pure contents were 317.25 grains. The gold eagle weighed 270 grains, eleven-twelfths fine, so that one dollar contained 24.75 grains of pure gold.—Sumner, *History of American Currency*, p. 60.

† Richardson, *Messages and Papers* vol. i., p. 249.

‡ Bolles, *Financial History*, pp. 169-170.

said also that, if the law of 1793 were enforced, a large amount of coin which the mint could not replace would be thrown out of circulation. This would result in private distress and industrial and commercial stagnation, and the committee recommended that for two years silver coins of every kind be accepted by the government and that so much of the act of 1793 as affected gold be suspended. After a long discussion, an amendment was offered suspending, for a limited time, so much of the act of 1793 as related to silver coin and so much as prohibited the circulation of foreign coin. This amendment was passed, and late in December, 1797, the bill was ordered to a third reading.*

By the act of February 1, 1798,† the limitation was extended to May 3, 1802. But legislation on this subject was singularly defective. The legal effect of this was that for three years after 1802 no foreign coins whatever were legal tender, and from May 3, 1805, only Spanish milled dollars and parts thereof could be thus employed. Spanish milled dollars were exported in such large quantities, and so many of the remaining foreign coins were kept by the banks that Congress determined once again to sanction the use of foreign coins. A law was passed fixing the rates at which foreign gold and silver coins should pass current as money within

* McMaster, vol. ii., pp. 360-363.

† 5th Congress, 2d session, chap. xi.

the United States.* That the actual standard value of coins might be known, they were to be assayed yearly; and, from the information thus obtained, Congress could act intelligently in altering the rates. This act was to continue in force until April 10, 1809.†

Meanwhile the mint had proved to be a very expensive institution, due chiefly to the principles on which it was founded. The original cost of the works, the salaries of the officers, the expense of workmanship and the alloy, mintage and contingent losses, had to be borne by the public. Besides, no charge could be made to depositors in the beginning for the process of melting and refining, which was an additional expense to the government. Moreover, a considerable expense was caused by the lack of capital with which to purchase the precious metals in bullion, to anticipate payments due to depositors, or to coin for the public. As the mint depended wholly on depositors for the precious metals, it became necessary to coin every deposit as soon as possible after receipt, to prevent its remaining unproductive to the depositor. Often the clippings and grains would have to be melted and coined three or four times for a single deposit, and thus the melting, refining, and coining of 200 ounces of silver or 20 ounces of gold would cost as much

as 1,000 ounces of either. Had it been possible to purchase the bullion at market price and to keep it in the vault until a large quantity had been collected for a single coinage, or had sufficient funds been furnished to the mint to anticipate payments to depositors without resorting to a coinage on every occasion, a very great saving would have been effected in wastage, expenditure for materials, and labor used in the process.* Such a practice would have tended also to fix the price of bullion and indemnify the public for a part of the expense of the operation.† Accordingly, in 1797, a sum was appropriated for the purchase of bullion, thus effecting great economy both to the government and to bullion depositors.‡

In 1795 the director of the mint was ordered to retain two cents per ounce for every ounce of silver bullion below refining standard and four cents per ounce for gold, unless it required a test, in which case he was to retain six cents.¶ Nor was he obliged to take from anyone less than 200 ounces of silver bullion below standard or less than 20 ounces of gold; he might even give preference to gold and silver bullion that conformed to the government standard. The next year

* Bolles, *Financial History*, pp. 163-164.

† See Pickering's report of December 20, 1796, *American State Papers, Finance*, vol. i., pp. 473-477.

‡ Haven's report of February 13, 1797.

¶ Act of March 3, 1795, 3d Congress, 2d session, chap. xlvii.

* Act of April 10, 1806, 9th Congress, 1st session, chap. xxii.

† Bolles, *Financial History*, p. 170 *et seq.*

the law was changed so that the director subtracted from every deposit below standard enough to pay the cost of refining.* By the close of the century less than \$2,000,000 had been coined — \$696,530 in gold, \$1,216,158.75 in silver and \$50,111.42 in copper, at an expense of \$213,336, not including \$48,041.42 reimbursed to the Treasury by the payments of cents and half cents.† The expense was so disproportionate to the benefits derived that a committee of Congress recommended that the Mint be closed.‡ The expediency of so doing continued to grow in the public mind. It was proposed even to have the cents coined by contract, which could be done, Boudinot declared, with great safety to the government and without expense, provided the government would accept this coins so made.¶ On January 29, 1802, Giles proposed that the act under which it had been established be repealed, believing that none but self-supporting establishments should exist. The House accepting his view, a repealing bill was introduced. On April 26, after a short de-

bate, it was passed without division, but was rejected by the Senate without discussion or even a call for yeas and nays.* But as the institution grew older its efficiency increased, and there was no difficulty to procure a sufficient quantity of precious metals for coinage. Accordingly Congress determined to give it another trial; during the second session of the Seventh Congress (1802-3) its life was extended for five years and \$20,000 voted for its support.† Up to the close of 1809 the expense of the Mint had been \$387,414.29, but, as there had been a profit in the copper coinage of \$37,331.52, the net expenses were only \$350,082.77. Up to that time the total value of the coinage had been \$8,346,146.21.‡

On January 30, 1798, the House was the scene of a disgraceful fracas between Matthew Lyon, of Vermont, and Roger Griswold, of Connecticut. During the impeachment trial of Senator Blount feeling ran high, and Lyon made the remark that the Connecticut members were acting in opposition to the will of their constituents; that they cared nothing for the public welfare and only wanted office. He said that if he could go into Connecticut with a printing press, he would revolutionize

* Acts of May 27, 1796, 4th Congress, 1st session, chap. xxxiii.; April 24, 1800, 6th Congress, 1st session, chap. xxxiv., sec. ii.

† Reports of Benjamin Rush, January 1, 1800, Joseph Nourse, February 20, and of Hillhouse, March 14, *American State Papers, Finance*, vol. i., pp. 616, 632-633; Bolles, *Financial History*, p. 166; *Annals of Congress*, 6th Congress, App., pp. 1256-1261.

‡ Hillhouse's report of March 14, 1800, *American State Papers, Finance*, vol. i., p. 632. See also pp. 635-642.

¶ See Gallatin's communication relating to the mint, April 2, 1802.

* Adams, *United States*, vol. i., pp. 299-300.

† *Ibid*, vol. ii., p. 77.

‡ Gallatin's report of January 11, 1811. See also Bolles, *Financial History*, pp. 168-169, where there is a mistake in figures.

the politics of the State and turn out the present delegation. Griswold thereupon asked him if he would do this with his "wooden sword," alluding to the story that Lyon had once been cashiered from the army. After a few more words, Lyon spat in Griswold's face, and a fight ensued. A motion to expel Lyon was made, but as the necessary vote of two-thirds could not be obtained, the motion was lost. Griswold did not forget the insult, however, and for many days carried a cane built on the proportions of a cudgel, only waiting an opportunity to use it, which soon came. On February 15, discovering Lyon in his seat, Griswold crossed the floor with his cudgel in his hand and began to beat him. Lyon finally succeeded in getting to the fireplace, where he seized the tongs to defend himself, but, before he could use them, Griswold struck him full in the face with his cudgel. The two then grappled until they were separated by other members. Lyon then secured a cane and advanced to renew the contest, but the Speaker, who had calmly permitted the fight to proceed to this point, rapped for order. Most of the members, who were blinded by party hate, had looked on with manifest delight, but a few, whose decency had not left them entirely, demanded that both men be expelled. The Committee of Privileges reported against the motion, however, and the House sustained the report by a vote of 73

to 21.* But both men were required to give pledges that they would refrain from personal contests during the remainder of the session.

During the summer of 1798, Philadelphia was again visited by a scourge of yellow fever, but this city was not alone in its misery, as the epidemic visited several Northern cities. At Boston the sickness was attributed to the putrification of some decayed beef which had been thrown into the bay and lay festering in the sun. Sixty hogsheads of lime were emptied into the bay, with little effect, and thousands of people fled into the country to escape the disease. At New York, where 1,524 persons died, it was claimed that the filth in the streets had bred the pestilence, and at Philadelphia it was attributed to the same cause by the Academy of Medicine, but the College of Physicians denied this and said it was imported by the ship *Deborah*, which had arrived from Jeremie on July 8. The fever spread rapidly, and during the first week in August 53 deaths were reported, the victims finally becoming so numerous that separate

* The report of the Committee of Privileges, with the testimony, is in *American State Papers, Miscellaneous*, vol. i., pp. 166-178. For the debate, see *Annals of Congress*, 5th Congress, 2d session, vol. i., pp. 955-958, 961-962, 964-965, 970-1029, 1034-1043, 1048-1058, 1063-1068; Benton, *Abridgment of Debates*, vol. ii., pp. 205-216. See also Madison's *Works* (Congress ed.), vol. ii., pp. 127-130; McMaster, vol. ii., pp. 363-366; Schouler, *United States*, vol. i., pp. 382-383; Watson, *Life and Times of Thomas Jefferson*, pp. 372-376; Bassett, *Federalist System*, pp. 254-255.

graves were no longer dug, the bodies being placed in a huge trench. All employment ceased, the shops closed, credit was discontinued, and the bakers fled from the town. These conditions soon resulted in general penury and consequent starvation. Thousands of the citizens fled, and of those who remained about 50 died every day. The

deserted city became a prey to thieves and vagabonds; houses and shops were plundered and banks looted. But, as before, cold weather ended the ravages of the disease, and the people again returned to the city. All together, it is estimated that between 3,500 and 4,000 died during the pestilence.*

CHAPTER XIII.

1797-1798.

THE X. Y. Z. MISSION.

Arrival of the American envoys at Paris — Their instructions — Irritation of the Directory — X., Y. and Z.'s demand for money — Talleyrand's demand that the United States loan money to France — Threats of coercion — The envoys' refusal to hold further indirect intercourse — Gerry's interview with Talleyrand — The envoys' discussion of differences between the two nations — Federalist and Republican views of the envoys' letter — The French decrees — Talleyrand's offer to treat with Gerry alone — The envoys' reply — The departure of Marshall and Pinckney, without Gerry — The latter's revelation of the identity of X., Y. and Z. — His departure — Convening of Congress — The President's message — Dispatches from envoys transmitted to Congress — The country's indignation — Action of Congress — The people's enthusiasm — Republican ridicule of Adams — Jefferson's rebuke of the secession sentiment — Spirit of the country — Attitude of Congress toward declaration of war — Treaties with France declared no longer obligatory.

Soon after their appointment, the American envoys departed for France, and, after joining General Pinckney, reached Paris October 4, 1797. In their letters of instruction the envoys were requested to exert their greatest efforts to restore harmony and good understanding and to reopen commercial intercourse between the two nations. They were to urge France to recompense American citizens for spoliations upon American commerce, though this was not represented as indispensable to a treaty. On the other hand, however, such claims would not be renounced

by the United States under any circumstances, nor would these claims be assumed by our government as a loan to France. The envoys were not to commit the government to any stipulations incompatible with its complete sovereignty and independence, but, if need be, they might grant concessions regarding the seizure of enemies' goods in neutral vessels, provisions, and contraband, similar to the terms contained in the British treaty. If they broached the subject of a mutual renunciation of

* McMaster, vol. ii., pp. 410-414.

the guarantee clause of the treaty of 1778, they were to do so delicately, for during the present European war France had neither insisted upon American observance of that clause nor had she made any serious attempt to controvert the American argument that the guarantee related only to the defensive wars of France, and not to a war of the kind in which she was now engaged.* Thus carefully instructed and admonished, the envoys immediately entered upon the task set before them.† They had hoped to be met by men of the same character as themselves and to be allowed to discharge their duties promptly and satisfactorily. But as Marshall says: "History will scarcely furnish the example of a nation not absolutely degraded, which has received from a foreign power such open contumely and undisguised insult as were on this occasion suffered by the United States in the persons of their ministers." On October 8 the envoys waited upon Talleyrand, the French minister of foreign affairs, and delivered to him their letters of credence, requesting him to appoint a day for an interview. He replied that, by order of the Directory, he was preparing a report upon the existing relations be-

tween the United States and France which was to be submitted to the Directory, and that when it was finished he would tell them "what steps were to follow."*

A few days later (October 18) Talleyrand's secretary waited upon the envoys and informed them that the Directory were exceedingly irritated at some passages in the President's speech to Congress, and that these passages must be softened and satisfactorily explained before the envoys would be received at a public audience.† The minister of foreign affairs would, however, open negotiations with them through an indirect channel, and for this purpose three agents, M. Hottinguer, M. Bellamy, and M. Hauteval (designated as X., Y. and Z. in the dispatches transmitted to Congress‡), waited upon the American envoys, and disclosed the plans and expectations of Talleyrand. They said that the wound which had been inflicted upon the feelings of France could not be healed except by money.|| Talleyrand's cupidity, the Directory's cupidity, the National cupidity must be satisfied, and this could be done only by a present of money, and plenty of it. Talleyrand wanted "twelve hundred thousand francs," or only \$240,-

* The instructions are in *American State Papers, Foreign Relations*, vol. ii., pp. 153-157. See also Schouler, *United States*, vol. i., pp. 385-386.

† For Adams' view of the negotiations, see his letters in his *Works*, vol. viii., pp. 546-549; for the Democratic view, see Randall's *Jefferson*, vol. ii., pp. 381-394; *Jefferson's Works*, vol. iv., pp. 238-240 (ed. 1854).

* *American State Papers, Foreign Relations*, vol. ii., p. 158; Parton, *Life of Thomas Jefferson*, p. 545.

† *Ibid.*, p. 158.

‡ Moore, *American Diplomacy*, p. 57 et seq. See also *American State Papers, Foreign Relations*, vol. i., p. 211.

|| Magruder, *John Marshall*, pp. 106-107.

000 in gold for his private use.* These agents evidently supposed that the Americans would submit without much objection.† Bellamy read the President's speech and enlarged upon the resentment it had occasioned and upon the "satisfaction" which was an indispensable preliminary to any negotiation. "But I will not disguise from you that, this satisfaction being made, the essential part of the treaty remains to be adjusted; you must pay money; you must pay a great deal of money."‡ While careful to state that the proposals did not emanate from either the minister or the Directory, Bellamy, who professed to be in direct communication with Talleyrand, proceeded to unfold the means by which the United States could reach a good understanding with France and a treaty procured placing our neutral rights on the same footing as existed under the British treaty. He said that a disavowal of the President's speech, a loan to the government, and *douceurs* for the Directors were indispensable. In order that the British might not suspect the nature of the transfer of money to France, Bellamy suggested that the United States take, by assignment from France, certifi-

cates of an extorted Dutch loan, the face value of which was about \$12,800,000, but which in the open market were worth but half that sum. In other words, the United States was to loan \$6,000,000 on worthless security and make a present of the other \$6,800,000, in the hope that, upon the termination of the European war, the security would attain par value.* On October 27 Hottinguer announced that since the peace with the Emperor of Austria the Directory was disposed to take a higher tone than ever before with respect to the United States and all other neutral nations. In fact, it was resolved not to have any neutrals whatsoever and that nations who did not aid France would be treated as enemies. He reproved the Americans for injecting into the controversy matters which he deemed irrelevant, saying: "Gentlemen, you do not speak to the point. It is money; it is expected that you will offer money."† The envoys listened to these speeches in amazement and finally returned an indignant reply. They said that their powers to conclude a treaty were ample, but that they had no power to make a loan; however, one of their number would return home to ascertain the disposition of the government regarding a loan, if in the meantime the Directory would suspend depreda-

* Parton, *Life of Thomas Jefferson*, p. 546; Bassett, *Federalist System*, p. 231. The details of the conversations are given at length in *American State Papers, Foreign Relations*, vol. ii., p. 158 et seq.

† McMaster, vol. ii., pp. 368-371.

‡ *American State Papers, Foreign Relations*, vol. ii., p. 159; Magruder, *John Marshall*, p. 109.

* Schouler, *United States*, vol. i., p. 387; *American State Papers, Foreign Relations*, vol. ii., p. 159.

† See the conversation in *American State Papers, Foreign Relations*, vol. ii., p. 160; Parton, *Life of Thomas Jefferson*, pp. 547-548.

tions on American commerce and discontinue prize proceedings, including awards unfavorable to American interests. On the other hand, it would be absolutely impossible to make a recantation of the President's speech, as that was beyond the range of diplomatic revision.

Hauteval then assured the envoys of Talleyrand's good disposition toward the United States and suggested a private and unofficial interview with the French minister. It was agreed that Gerry, who had known both Talleyrand and Hauteval in America, should represent the envoys. Accordingly, on October 28, Talleyrand received him in company with Hauteval, who acted as interpreter. This interview served but to confirm the impression that X., Y. and Z. had acted under Talleyrand's inspiration; for, though discreetly silent as to *douceurs*, Talleyrand made a still more peremptory request for a loan and exhibited a decree lately passed by the Directory requiring reparation for the language used by the President — though he thought the operation of this decree might be prevented by an offer of money. Gerry's response was similar to that made by the envoys to Hottinguer, Bellamy and Hauteval.*

Still the agents of Talleyrand continued at work. They said that nothing could be done without money, that

one of the members of the Directory was then in the pay of the privateers, that Hamburg and several other European States had been compelled to purchase peace, and that it would be to the interest of the United States to do likewise.* The immense power of France was painted in gorgeous colors, the humiliation of Austria was dwelt upon, and the conquest of Great Britain confidently predicted. They called attention to the situation of the United States and to the force which France was able to bring to bear upon her, arrogantly pointing out that France alone could save America, and that she ought to take warning from the fate of Venice. They said: "Perhaps you believe that in returning and exposing to your countrymen the unreasonableness of the demands of this Government, you will unite them in their resistance to those demands. You are mistaken. You ought to know that the diplomatic skill of France, and the means she possesses in your country, are sufficient to enable her, with the French party in America, to throw the blame which will attend the rupture of the negotiations on the Federalists, as you term yourselves, but on the British party, as France terms you, and you may assure yourselves this will be done." They asserted, moreover, that France would use her power without scruple.† Talleyrand had

* *American State Papers, Foreign Relations*, vol. ii., pp. 161-163; Schouler, *United States*, vol. i., p. 388.

* *American State Papers, Foreign Relations*, vol. ii., p. 162.

† *Ibid.* p. 164; Bassett, *Federalist System*, p. 231.

already advised the envoys that they should assume plenary powers and make the loan, and a new course was mapped out for the envoys to pursue. They must propose, in case a commission were appointed to settle American claims, that all sums awarded to Americans be considered as advanced to France; that the envoys should procure from the home government the needed authority to make the loan; but that the *douceur* money must be paid at once, without awaiting instructions from America. Should the envoys agree to this, *possibly* during the interval captures and prize proceedings against American property would cease.*

The American envoys replied that the United States highly esteemed the power of France and that no nation wished more ardently to be at peace with her. But one object was dearer to Americans than the friendship of France, and that was their national independence. America had a right to take a neutral position, and no nation had the right to force her out of it. If she should lend money to a belligerent power abounding in all the requisites of war but money, she would thereby relinquish her neutrality and actually become engaged in war. To lend this money under coercion, was to relinquish her government and to submit to foreign domination. The United States was prepared to make a vigorous struggle, at

least, before she thus surrendered her liberty.* Furthermore, they said that the United States had numberless times proven her friendship for France when almost the whole of Europe was leagued against her. But for this display of friendship how has France been treating her?

"Wherever our property can be found she seizes and takes it from us; unprovoked, she determines to treat us as enemies, and our making no resistance produces no diminution of hostility against us. She abuses and insults our Government, endeavors to weaken it in the estimation of the people, recalls her own minister, refuses to receive ours, and when extraordinary means are taken to make explanations * * * the envoys who bear them are not received. They are not permitted to utter the amicable wishes of their country, but, in the haughty style of a master, they are told that unless they will pay a sum to which their resources scarcely extend they may expect the vengeance of France, and, like Venice, be erased from the list of nations." †

Finally, on November 1, the envoys resolved that they would hold no more indirect intercourse with the government.‡ Ten days later they wrote to Talleyrand, reminding him that he had promised to make known the decision of the Directory immediately upon submitting his report on American affairs.¶ Two weeks passed without any answer, and the American envoys sent Pinckney's private secretary to Talleyrand inquiring as to whether he had submitted their letter to the Directory and at what time they

* *American State Papers, Foreign Relations*, vol. ii., p. 162; Magruder, *John Marshall*, p. 121.

† *American State Papers, Foreign Relations*, vol. ii., p. 164.

‡ *Ibid.*

¶ *Ibid.*, p. 166.

* Schouler, *United States*, vol. i., pp. 388-389.

might expect an answer. Talleyrand replied that the letter had been submitted and that he would notify the envoys when the Directory had instructed him as to the course he was to pursue*. In the meantime, Hottinguer and Bellamy repeatedly tried to draw the envoys into further discussion, but the envoys persisted in their determination to hold no further indirect intercourse. On December 13, however, Gerry remarked that he would be pleased to invite Talleyrand to dine with them, and at once Bellamy proposed to accommodate Gerry. The unscrupulous Frenchman then again, in Marshall's presence, urged the importance of making the loan to France and paying the bribe to the Directory, saying that unless the envoys should do so, arrangements would undoubtedly be made at once to ravage the coast of the United States. Gerry replied that France might ravage the coast, but never would she be able to subdue the country. On reaching Talleyrand's office, Gerry stated to him the substance of the conversation he had just held with Bellamy, and was informed that it was correct and that it would be given to him in writing. Talleyrand then made a memorandum stating the exact form of the proposed loan, but after showing it to Gerry, he burned it.†

The envoys assiduously labored in an attempt to come to some satisfactory agreement with the Directory. They had become weary at the delay and angry at the demands of X., Y. and Z., and on December 19 decided to write a letter to Talleyrand in which the differences between the two countries would be discussed exactly as if they were accredited ministers. Accordingly, on January 17, 1798, they wrote a letter to the minister of foreign affairs, but this was not delivered until the last of the month.* The seizure of American ships, the embargo laid at Bordeaux, the operation of the Jay treaty on our treaties with France, etc., were all set down in the vigorous language of Marshall—in what Gibbs calls “a monument in the diplomacy of America.” While it was satisfactory from the Federalist point of view, it could hardly have been deemed conclusive by those who took the Republican view.

To the Republicans perhaps the most unsatisfactory part of the letter was that which dealt with the attacks by France upon the rights of the United States. It was said that on May 9, 1793, the National Convention had passed a decree containing the following paragraph: “The French ships of war and privateers may stop and bring into the ports of the Republic such neutral vessels as are loaded, in

* *Ibid*; Schouler, *United States*, vol. i., p. 389; Gordy, *Political History*, vol. i., p. 303.

† *American State Papers, Foreign Relations*, vol. ii., pp. 167–168. See also the letter of Gerry

to Adams in John Adams' *Works*, vol. viii., pp. 610–612; McMaster, vol. ii., pp. 372–374; Schouler, *United States*, vol. i., pp. 389–390.

* *American State Papers, Foreign Relations*, vol. ii., pp. 169–182.

whole or in part, with provisions belonging to neutrals and destined for enemy's ports or with merchandise belonging to enemies." This decree, so far as it related to the United States, had been repealed May 23, was again passed May 28, repealed July 1, and reënacted July 27. It was said that the French government could not in good faith refuse to settle the claims of American citizens growing out of damages sustained before and during Monroe's stay in France; that on July 2, 1796, a decree had been passed providing "that all neutral or allied powers shall without delay be notified that the flag of the French Republic will treat neutral vessels, either as to confiscation, searches, or captures, in the same manner as they shall suffer the English to treat them;"* that on March 2, 1797, to offset the effect of Jay's treaty, France had declared that the goods of enemies found in American vessels and merchandise *insufficiently proved to be neutral*, were liable to confiscation; and such American seamen as were found on the ships of enemies shall be subjected to punishment as pirates, whether on those ships of their own volition or forced there by threats or violence;† and that this decree had compelled American ships to possess papers which had not been contem-

plated under the existing treaties between the two nations.*

From the Republican point of view, again, the letter was unsatisfactory in that it failed to mention facts from which a just judgment of the conduct of the French Government could be reached. The Republicans asked why it was that the decree of May 9, confirmed by that of July 27, had remained in force for so many months. The causes of this were the anti-French and pro-British attitude in America and the actions of Gouverneur Morris in France. That France was eager to do us justice is evident from the fact that, immediately after receiving convincing proof of the friendliness of the Americans and the American Government, she had passed the decrees of November 18, 1794, and

* On February 27, 1797, Secretary of State Pickens made a report indicating categorically the character of the injuries suffered by American citizens as follows: "1. Spoilations and maltreatment of their vessels at sea by French ships of war and privateers; 2. A distressing and long continued embargo laid upon their vessels at Bordeaux, in the years 1793 and 1794; 3. The non-payment of bills and other evidences of debt, drawn by the colonial administrations on the West Indies; 4. The seizure or forced sales of the cargoes of their vessels and the appropriating of them to public use without paying for them, or paying inadequately, or delaying payment for a great length of time; 5. The non-performance of contracts made by the agents of the government for supplies; 6. The condemnation of their vessels and cargoes under such of the marine ordinances of France as are incompatible with the treaties subsisting between the two countries; and 7. The captures sanctioned by a decree of the National Convention of the 9th of May, 1793, * * * in violation of the treaty of amity and commerce." See *American State Papers, Foreign Relations*, vol. i., pp. 748-760. See also the report of June 22, 1797, in *ibid.* vol. ii., pp. 23-65.

* See also *Report of the American Historical Association for 1903*, vol. ii., pp. 641, 668.

† For text, see *American State Papers, Foreign Relations*, vol. ii., pp. 12-13, 30-31.

January 3, 1795. When, however, the United States practically repudiated its treaties with France by ratifying the Jay treaty, it was only natural that France should retaliate; for why should one party be held to a compact which the other breaks at will? This was the French view of the matter and also that of the Republicans.

On January 18, 1798, before the envoys had sent their letter to Talleyrand, a violent and outrageous attack was made by the Directory on the commerce of neutrals. On that day a decree was passed prohibiting the entrance into any French port of any vessel which during her voyage had made an English port or the port of any English colony, also rendering liable to confiscation any vessel laden with merchandise produced either in England or in any of her colonies.*

In their letter the envoys said that, as their labors were of no avail, and as they were not permanent ministers but envoys extraordinary, they felt it to be both wrong and useless to remain longer in France. As Talleyrand made no reply for two weeks, a messenger was sent on February 19 to ask if he had any reply to make and returned with the answer that he had none. On the 27th an interview was requested, and March 2 was set as the day, but the envoys accomplished nothing and left.† Still continuing to

keep the envoys on the defensive, the artful Talleyrand upbraided them for not visiting him privately, and then, assuring them that he desired to establish permanent friendship between the two nations, once again broached the subject of an immediate loan. He stated that the only scruple the United States had was with regard to a charge of neutral infidelity and this could be overcome "by the astute contrivance of some lying subterfuge." But Pinckney and Marshall could not be moved; they sturdily and absolutely refused to make a loan.* No further word was received from Talleyrand until March 18, when he sent a letter accusing the envoys of deceit and charging that the United States had done everything possible to prolong the misunderstanding. How he reached this conclusion is difficult to discover, for he knew that one minister had been driven from France and that three envoys had been waiting for months to adjust the differences, all the while being subjected to the grossest insults, but nevertheless exhibiting an earnest desire to restore amicable relations between the two countries. As though this were not enough, Talleyrand had the audacity to say that the United States had sent to France as envoys

"Persons whose opinions and connections were too well known to hope from them dispositions sincerely conciliatory. It is painful to be obliged to make a contrast between this conduct and that

* *American State Papers, Foreign Relations*, vol. ii., p. 182; Allen, *Our Naval War with France*, pp. 33, 299.

† McMaster, vol. ii., pp. 403-404.

* *American State Papers, Foreign Relations*, vol. ii., pp. 186-187; Schouler, *United States*, vol. i., p. 391.

which was pursued towards the Cabinet of St. James under similar circumstances. An eagerness was then felt to send to London ministers well known for sentiments corresponding with the object of their mission. The republic, it seems, might have expected a like deference. * * * The Executive Directory is disposed to treat with that one of the three, whose opinions, presumed to be more impartial, promise, in the course of the explanations, more of that reciprocal confidence which is indispensable." *

The envoys sent a long letter in reply. In regard to the charge that the pro-British sympathies of two of the envoys rendered them unfit for a mission to France, they said:

"The opinions and relations of the undersigned are purely American, unmingled with any particle of foreign tint. If they possess a quality on which they pride themselves, it is an attachment to the happiness and welfare of their country; if they could at will select the means of manifesting that attachment, it would be by effecting a sincere and real accommodation between France and the United States on principles promoting the interests of both, and consistent with the independence of the latter. * * * All who love liberty must admit that it does not exist in a nation which cannot exercise the right of maintaining neutrality. If 'opinions and relations' such as these are incompatible with 'dispositions sincerely conciliatory,' then indeed has the Federal Government chosen unfit instruments for the expression of its pacific disposition."

Regarding Talleyrand's proposal to treat with Gerry, they said:

"The result of a deliberation on this point is that no one of the undersigned is authorized to take upon himself a negotiation, evidently entrusted by the tenor of their powers and instructions to the whole; nor are there any two of them who can propose to withdraw themselves from the task committed to them by their government while there remains a possibility of performing it." †

Talleyrand ignored this letter, and, still believing he could make use of Gerry, wrote him a note on April 3 inviting him to remain. He said:

"I suppose, sir, that Messrs. Pinckney and Marshall have thought it useful and proper, in consequence of the intimations given in the end of my note of the 28th Ventose last, and the obstacle which their known opinions have interposed to the desired reconciliation, to quit the territory of the Republic. On this supposition, I have the honor to point out to you the 5th or 7th of this decade to resume our reciprocal communications." *

Gerry meekly consented to remain, but Marshall immediately started home, where he arrived in June and was received with unfeigned joy. Pinckney was detained at Paris by the illness of his daughter. ‡

Gerry now undertook to carry on the negotiations with Talleyrand single-handed, and for some time foolishly tried to cope with the wily Frenchman. On May 12 he received a dispatch from the United States to the effect that, if the mission of the envoys had failed, they were to return; but Gerry, vainly thinking himself a match for the French diplomat, continued to swallow his insults for three months longer. As Gibbs says: §

"He was engaged in a controversy with Talleyrand, in which every manner of insult was heaped by that functionary upon himself and his country, in which his credulity was ridiculed, his understanding derided, and even his veracity impugned; a controversy in which his only object

* *Ibid.*, vol. ii., p. 200.

† Bassett, *Federalist System*, p. 233.

‡ *Administrations of Washington and Adams*, vol. ii., p. 149. See, however, *Adams, Works*, vol. i., p. 532.

* *American State Papers, Foreign Relations*, vol. ii., pp. 188-191.

† *Ibid.*, pp. 191-199.

seemed to be, to obtain the last word, or to get the better of his adversary in florid professions of the amicable disposition of their respective governments."

Talleyrand even dropped a hint that a minister would be sent to the United States, and this, of course, persuaded Gerry that the matter would be amicably settled, until, one morning, the X. Y. Z. dispatches were published in a London newspaper and a demand was made that he pronounce them false and give the names represented by those letters. Instead of stating that these dispatches were absolutely true and refusing to give the names, or else returning home at once, Gerry swallowed the insult, on May 31, 1798, gave an evasive explanation, and on June 4 meanly disclosed the names. Talleyrand well knew who they were and had sanctioned their actions. Yet he now indignantly disavowed any responsibility for their acts, saying that Marshall and Pinckney had been duped and bestowing on Mr. Gerry some doubtful compliments which everyone knew to mean "worse than duped." A series of letters now passed between the two diplomats which were knavish, insolent, and prevaricatory on the part of Talleyrand, and dull, vacillating, and weak on the part of Gerry. No good resulted from this correspondence, and on July 26 Gerry left Paris for home.*

* The correspondence is in *American State Papers, Foreign Relations*, vol. ii., pp. 204-229; McMaster, vol. ii., pp. 405-408; Schouler, *United States*, vol. i., pp. 426-427. In a letter to

Meanwhile Congress was supposed to have met at Philadelphia on the second Monday in November, 1797, but, owing to the epidemic of yellow fever in that city, the Senators and Representatives refused to enter it and Congress did not assemble until the 22d. On the 23d President Adams made his opening speech.* Foreign affairs, particularly relations with France, occupied a large share of the President's attention. As yet, he was able only to announce the arrival of the special mission in France, but he spoke of the "increasing depredations" upon American commerce, the importance of which he justly appreciated, saying:

"The commerce of the United States is essential, if not to their existence, at least to their comfort, their growth, prosperity, and happiness. The genius, character, and habits of the people are highly commercial. Their cities have been formed and exist upon commerce. Our agriculture, fisheries, arts, and manufactures are connected with and depend upon it. In short, commerce has made this country what it is, and it cannot be destroyed or neglected without involving the country in poverty and distress. Great

Adams, Pickering threatens to expose Gerry's "duplicity and treachery." "You will start," he says, "at the two last words. I verily believe they are correctly applied, and that the testimonies of General Pinckney and General Marshall (whose veracity will not be questioned) will support the imputation. I verily believe, Sir, that his conduct would warrant his impeachment; and if he should not be impeached, not his *innocence*, but *political expediency* alone, may prevent it."—John Adams, *Works*, vol. viii., p. 616. Austin, *Life of Gerry*, chaps. v.-viii., says all that can be said in his defence.

* Richardson, *Messages and Papers*, vol. i., pp. 250-254; John Adams, *Works*, vol. ix., pp. 121-126; *Annals of Congress*, 5th Congress, 2d session, vol. i., pp. 630-634; Benton, *Abridgment of Debates*, vol. ii., pp. 167-169.

numbers are directly and solely supported by navigation. The faith of society is pledged for the preservation of the rights of commercial and seafaring no less than of the other citizens. Under this view of our affairs, I should hold myself guilty of a neglect of duty if I forebore to recommend that we should make every exertion to protect our commerce and to place our country in a suitable posture of defence as the only sure means of preserving both."

He mentioned also the progress of the Spanish negotiations, the proceedings of the commissioners under the British treaty, the steps made requisite by "the numerous captures of American vessels by the cruisers of the French republic," and recommended that the consular act be amended and that the support of the government be provided for. By this time the Federalists had become particularly strong in the Senate and the Republicans in the House, as is evident from the respective answers of the two Houses to the President's speech.* Measures for defence and money bills were contemplated, but nothing could be done before definite news came from France. December passed without such tidings, then January came and went, and when February gradually grew to a close without word from the envoys, men began to breathe more easily, for it was thought that "this is one of the cases where no news is good news," and where "silence is admitted to augur peace." †

* Richardson, *Messages and Papers*, vol. i., pp. 254-258.

† Ford's ed. of Jefferson's *Writings*, vol. ii., pp. 204, 213.

Not until the beginning of March, 1798, while the question of arming merchant vessels for their own defence was under discussion in Congress, were any dispatches received from the envoys in France. On March 19 the President communicated by message the information just received.* He said that the failure of the mission could not be attributed "to any want of moderation on the part of this Government, or to any indisposition to forego secondary interests for the preservation of peace." He said:

"I can discern nothing which could have insured or contributed to success that has been omitted on my part," and "under these circumstances * * * I exhort you to adopt * * * such measures as the ample resources of the country afford for the protection of our seafaring and commercial citizens, for the defence of any exposed portion of our territory, for replenishing our arsenals, establishing foundries and military manufact[ories], and to provide such efficient revenue as will be necessary to defray extraordinary expenses and supply the deficiencies which may be occasioned by depredations on our commerce."

The Republicans denounced this message as a "war hawk's cry," pronouncing it little short of a declaration of war. Jefferson said that Adams' recommendation was "an insane message." † Pickering would declare war immediately, but was re-

* Richardson, *Messages and Papers*, vol. i., pp. 264-265; MacDonald, *Select Documents*, pp. 136-137. See also John Adams, *Works*, vol. i., p. 518, vol. ix., p. 156; *Annals of Congress*, 5th Congress, 2d session, vol. i., pp. 523, 1200-1202, vol. ii., p. 1271; Benton, *Abridgment of Debates*, vol. ii., p. 217.

† Ford's ed. of Jefferson's *Writings*, vol. vii.,

strained when it was pointed out that this would endanger the lives of the envoys still in France.* Adams thought we should force France to make the declaration of war, in the meantime preparing for hostilities; and in this view he was upheld by Hamilton.† The first expressions of public opinion, however, were adverse to the views of the President.‡ Resolutions deprecating the measures of defence advocated by Adams were introduced in the Pennsylvania Legislature, but were defeated by a small majority. On the other hand, the Legislatures of the New England States warmly approved the President's policy, and the General Court of Massachusetts went still further when it proposed, with the sanction of the other five States, to amend the Constitution by disqualifying natives of foreign countries from ever holding office in the United States. Regarding the action of the New England States and their favorable attitude toward the administration and the conduct of foreign relations, Jefferson said: "They are so priest-ridden that nothing is to be expected

from them but the most bigoted passive obedience.*"

Congress immediately set to work enacting legislation in accordance with the recommendations of the President. In the House a bill was passed appropriating money to equip the three frigates which had been authorized at the previous session. On March 27 three resolutions were introduced by Sprigg, of Maryland, which showed the policy of the opposition. The first declared that it was inexpedient for the United States to engage in war with France, the second stated that the arming of merchant vessels ought to be restricted, and the third asserted that adequate provision should be made for the protection of our seacoast ports and for the internal defence of the country. Thus the Republicans opposed offensive war while supporting measures providing for defensive war. The first of these resolutions proved as embarrassing as it was designed to be. On the Federalist side, Harper endeavored to make the resolution appear insignificant,† but Baldwin replied that, the President having declared war inevitable, Congress, the war-making body, if it differed with him, should declare to the contrary.‡ On April 2, in the

pp. 219, 221, letters to Madison and Monroe. See also Madison's letter to Jefferson, April 15, 1798, *Madison's Works* (Congress ed.), vol. ii., pp. 133-136.

* Hamilton's ed. of *Hamilton's Works*, vol. vi., pp. 272-278.

† Richardson, *Messages and Papers*, vol. i., p. 265; Hamilton's ed. of *Hamilton's Works*, vol. vi., pp. 269-271.

‡ Madison's *Works* (Congress ed.), vol. ii., pp. 137, 138.

* Ford's ed. of *Jefferson's Writings*, vol. vii., p. 213.

† *Annals of Congress*, 5th Congress, 2d session, vol. ii., p. 1319; Benton, *Abridgment of Debates*, vol. ii., p. 225.

‡ For the debate, see *Annals*, pp. 1322-1371; Benton, pp. 225-242.

course of the debate upon these resolutions, a motion was passed requesting that the President transmit to Congress the dispatches which had been received from the envoys. The propriety of submitting this correspondence had already been considered by the Cabinet members. Pickering desired to make an abstract of the French grievances, and, to make the disclosures more impressive, to have the President deliver the speech from the Speaker's chair. From the fact that Pickering called the French government "devils out of pandemonium," one may well believe that his abstract would have been a spicy document. Wolcott favored disclosing the original documents, deeming the situation such as to render necessary that the country have full and absolutely authentic information. Hamilton, too, considered such a course eminently proper, and Adams reached the same conclusion.* On April 3, therefore, he complied with the call of the House, sending all the dispatches he had received.† He withheld only the names of Talleyrand's three agents, designating them as X, Y, and Z. After the dispatches had been examined in secret session, a resolution was passed by both Houses directing that they be circulated

throughout the country for the consideration of the whole people.*

The effect of these dispatches upon Congress and the country ought to have convinced the Hamiltonian Federalists that American society displayed not the least indication of disintegration. At the beginning of the session the Republicans had a large majority in the House, but at this time they were but an impotent minority. Some changed sides, while others went home "to consult their constituents." On April 26, 1798, Jefferson wrote to Madison that "Giles, Clapton, Cabell and Nicholas have gone and Clay goes to-morrow. * * * Parker has completely gone over to the war party. In this state of things they [the Federalists] will carry what they please."† Intense feeling was aroused throughout the country. Thousands who hated the Federalists, despised John Adams, and detested Great Britain, now heartily supported the government in resenting the insults heaped upon the country's envoys.‡ The theatre was crowded with

* *Annals*, pp. 1377-1380.

† Ford's ed. of Jefferson's *Writings*, vol. vii., p. 245.

‡ Jefferson says: "The arguments to which his [Talleyrand's] agent resorted to induce compliance with this demand, were very unworthy of a great nation * * * and calculated to excite disgust and indignation in Americans generally, and alienation in the republicans generally, whom they so far mistake, as to presume an attachment to France and a hatred to the Federal party, and not love of their country, to be their first passion."—Ford's ed. of Jefferson's *Writings*, vol. vii., p. 235. Madison says: "The conduct of Talleyrand is so extraordinary as to be scarcely creditable. I do not allude to its depravity, which.

* Schouler, *United States*, vol. i., pp. 396-397.

† Richardson, *Messages and Papers*, vol. i., p. 265; *Annals of Congress*, 5th Congress, 2d session, vol. i., p. 535, vol. ii., pp. 1374-1375, vol. iii., pp. 3222-3531; McMaster, vol. ii., pp. 375-376; John Adams, *Works*, vol. ix., p. 158.

wildly shouting people, who insisted that the orchestra play the "President's March," "Yankee Doodle," or "Stony Point." Bands of Republican adherents tried to induce the audience to sing "Ça ira" or the "Marseillaise," but the audience would arise, stand on the seats, sing, cheer and shout until the cries of the Republicans were drowned. Joseph Hopkinson now composed the song "Hail Columbia" to the tune of the "President's March," and on April 25 it was sung in the theatre. The house was packed, with thousands standing outside, and when the chorus was reached the audience joined in. As the verse "Behold the chief who now commands" was started, the entire audience stood up, and, seconded by those outside, cheered until the building shook to its foundations.* About this time R. T. Paine produced the song "Adams and Liberty" which for a time was very popular.† Such scenes were repeated night after night, the appearance of the President serving to make the cheering and applause the more thunderous. Hundreds of loyal and patriotic addresses poured in upon President Adams; the merchants of Philadelphia, Baltimore, Lancaster,

Alexandria, New Brunswick, Trenton, Boston, New York, Portsmouth and other cities drew up addresses; and other citizens sent in memorials.* Peter Poreupine suggested that the young men mount the American cockade (black) and wear it until France came to reason; and the custom became so widespread that hardly a hamlet in the land but could boast a band of "Associated Youth" wearing the Federal band.†

The Republicans still continued to ridicule Adams and his party. The President was burned in effigy and insulted in tracts and speeches, and all manner of insinuations were made regarding the conduct of the negotiations with France. Jefferson induced good writers on the Republican side, Madison above all,‡ to write effective articles for the press; he set at work every pen that could be used against the military faction, urging upon his friends the powerlessness of black-guard vituperation when met by good sense and strong, clear, dignified reasoning. Unfortunately the Republicans often transcended the bounds of propriety in their attacks. "It must be admitted," says Tucker, "that if Mr. Jefferson experienced the most virulent hatred and the most un-

however heinous, is not without examples. Its unparalleled stupidity is what fills one with astonishment."—Madison to Jefferson, April 15, 1798, Madison's *Works* (Congress ed.), vol. ii, pp. 133-134.

* McMaster, vol. ii., pp. 376-380.

† Schouler, *United States*, vol. i., p. 399. For the history of the origin of the two songs, see Lossing, *Field-Book of the War of 1812*, p. 97.

* For Adams' replies to the various addresses, see his *Works*, vol. ix., p. 180 *et seq.* See also Morse, *John Adams*, pp. 285-286.

† See also Jefferson's letter to Madison, May 10, 1798, in Ford's ed. of *Jefferson's Writings*, vol. vii., p. 251.

‡ See his letter of April 5, 1798, in Ford's ed. of *Jefferson's Writings*, vol. vii., p. 231, also of April 12, p. 236.

founded calumny of his adversaries, he was, occasionally, not far behind them in credulity and in justice, and that he did not hesitate to attribute to them purposes which no honest mind could form and no rational mind would attempt." * Jefferson, however, had the statesman's breadth of mind, and whenever possible he restrained his followers from running to excess. Thus, when on May 17, 1798, John Taylor, of Carolina, expressed the thought that the time had come for Virginia and North Carolina to secede, Jefferson rebuked this sentiment in these words:

"If, on a temporary superiority of one party, the other is to resort to a scission of the Union, no Federal government can ever exist. If to rid ourselves of the present rule of Massachusetts and Connecticut, we break the Union, will the evil stop there? Suppose the New England States alone cut off, will our nature be changed? Are we not men still to the south of that, and with all the passions of men? Immediately we shall see a Pennsylvania party and a Virginia party arise in the residuary confederacy, and the public mind will be distracted with the same party spirit. What a game, too, will the one party have in their hands, by eternally threatening the other, that unless they do so and so they will join their northern neighbors. If we reduce our Union to Virginia and North Carolina, immediately the conflict will be established between the representatives of these two States and they will end by breaking into their separate units. Seeing, therefore, that an association of men who will not quarrel with one another is a thing which never yet existed, from the greatest confederacy of nations down to a town meeting or a vestry, seeing that we must have somebody to quarrel with, I had rather keep our New England associates for that purpose than to see our bickerings transferred to others." †

But the patriotic spirit was too strong for the Republicans to combat successfully, and Pinckney's expression, popularized into "Millions for defence, not a cent for tribute," became a rallying cry throughout the Union.* The war fever grew hotter and hotter; the young men formed defence associations, the wealthy generously contributed to the building of ships of war, and the women made flags and banners. Newburyport, Massachusetts, offered to present to the government a 20-gun vessel in ninety days; Boston subscribed \$125,000 in a few weeks and started two ships; New York raised \$30,000 in one hour; Portland (Maine) and Charleston (South Carolina) collected money to erect fortifications. Indeed, before long ships were in course of construction at Portland, Portsmouth, Salem, Chatham, Norwich, Philadelphia, Baltimore, and Charleston.†

The President's firm and manly tone in response to these addresses excited admiration among the members of his party. Writing to King, Robert Troope said: "Since man was created and government was formed, no public officer has stood higher in the confidence and affection of his countrymen than the President now does." George Cabot said: "All men whose opinions I know are unbounded in their applause of the manly, just, spirited, and instructive

* *Life of Jefferson*, vol. ii., p. 43.

† Ford's ed of *Jefferson's Writings*, vol. vii., pp. 263-265; Parton, *Life of Thomas Jefferson*, pp. 554-555.

* Stevens, *Albert Gallatin*, p. 156.

† McMaster, vol. ii., pp. 383-387.

sentiments expressed by the President in his answers to the addresses.”*

In the meantime, Marshall had arrived in the United States, bringing with him news of the indignities to which he and his colleagues had been subjected. On June 21 Adams sent a brief message to Congress declaring the negotiations with France at an end. In this message he made the noble declaration, which afterward became so famous: “I will never send another minister to France without assurances that he will be received, respected, and honored as the representative of a great, free, powerful, and independent nation.”† The wisdom of declaring war against France was now debated. The majority was against it, chiefly because Marshall had expressed the opinion that France would declare war the minute she heard of the publication of the dispatches. By allowing France to make war, the Federalists hoped to secure the acquiescence of the Republicans in such war measures as might be taken to defend the country, whereas they would oppose such measures if the United States declared war against France.‡ The attitude of the Republicans was clearly indicated by Albert Gallatin in a

speech of April 19, in which he said that “The committee were told by the gentlemen from South Carolina that if we did not resist, France would go on step by step in her course of aggressions against this country. This is a mere matter of speculation. It is possible France may go on in this way. If she goes on to make war upon us, then let our vessels be used to their full power. Let us not, however, act on speculative grounds, but examine our present situation, and, if better than war, let us keep it.” He thought it a wise thing to say, in substance, “We have met with captures and losses from the present European war, but, as it is coming to a close, it is not our interest to enter into it, but rather to go on as we have done.”*

On July 7 an act was passed declaring the treaties heretofore concluded with France no longer obligatory on the United States,† the reasons given for such a declaration being that the French had repeatedly violated the treaties; that the first claims of the United States for the reparation of those injuries had been rejected; that the French had repelled with indignity American attempts to adjust the

* *Life and Letters of George Cabot*, p. 158.

† Richardson, *Messages and Papers*, vol. i., p. 266. See also Ford's ed. of *Jefferson's Writings*, vol. vii., p. 275; John Adams, *Works*, vol. i., p. 519 and vol. ix., pp. 158-159; Schouler, *United States*, vol. i., pp. 402-403.

‡ *Life and Correspondence of Rufus King*, vol. ii., p. 543.

* *Annals of Congress*, 5th Congress, 2d session, vol. ii., p. 1472.

† For the debate, see *Annals of Congress*, 5th Congress, 2d session, vol. ii., pp. 1870-1871, 2035-2037, 2063, 2116-2128; Benton, *Abridgment of Debates*, vol. ii., pp. 310-316; Stevens, *Albert Gallatin*, pp. 158-159; Bassett, *Federalist System*, p. 237.

complaints between the two nations; and that the French still pursued against the United States a course of predatory violence infracting the said treaties and hostile to the rights of a free and independent nation. On

July 13 President Adams issued a proclamation revoking the exequaturs of the French consuls and vice-consuls, and prohibiting them from further exercising the functions pertaining to their offices.*

CHAPTER XIV.

1798.

THE ALIEN AND SEDITION LAWS.

The condition of the Federalists and Republicans — Jefferson's letter regarding measures before Congress — Lloyd's introduction of the Sedition bill — The mysterious letters to Bache — The latter's arrest for libel — The Naturalization Act — The Alien Act — The Alien Enemies Act — The Sedition Law — Objections to the latter — Opinions of Hamilton, Marshall and Adams — Petitioning of Congress to repeal the laws — Its refusal — Trial of Matthew Lyon for sedition — Trial of James Ross — The electoral bill — Duane's conviction — Punishment of his counsel — Other convictions — The Federal Juries bill. Appendix to Chapter XIV.— I. The Naturalization Act; II. The Alien Act; III. The Alien Enemies Act; IV. The Sedition Law.

Having provided for the defence of the country against attacks from without, as related in the previous chapter, Congress proceeded to punish French sympathizers for their attacks from within. Federalism was now predominant both in Congress and in the country at large, and this fact suggested to the leaders many ideas which had better been allowed to remain in embryo. They thought that the government of the country ought to be in the hands of the "capable classes," and as the Federalists considered themselves "capable," and as never before had there been such a need for the operation of their theory, they began to institute measures with that end in view. Never before had the officials of the government been so vilified and pro-

fanelly denounced, much of this abuse coming from foreigners — a fact which, considering that the country was on the verge of war with France, produced the impression that these aliens were agents of that nation.† The question was: Should the people of the United States rule themselves or should they be ruled by France? Was the United States an independent State or was it in reality a province of France? The Republicans believed that the American government was chiefly responsible for the relations then subsisting between France and the United States. It was true France had acted in an unfriendly manner, but

* Richardson, *Messages and Papers*, vol. i., pp. 270-271; John Adams, *Works*, vol. ix., pp. 170-172.

† Bassett, *Federalist System*, p. 252.

she was then in a life-and-death struggle with nearly the whole of Europe, and the unfriendly decrees were extreme measures rendered justifiable and necessary by her condition. On the other hand, we had brought this treatment at the hands of France upon ourselves by making a treaty with the inveterate enemy of France. From the Federalist viewpoint, the Republicans were entirely consistent in defending France. The Republicans had opposed every measure intended to confer indispensable powers on the Congress of the Confederation; they had favored paper money and every other measure which would discharge the obligation of contracts; they had opposed the Federal Convention and later the adoption of the Constitution; they had opposed every measure for redeeming the debts of the country; they had opposed the enforcement by the government of the laws under which insurrection might be suppressed; and had attempted to defeat the treaty made by the legally constituted authorities. The Republicans regarded any restraint on the freedom of action as a restraint on liberty and were therefore, the Federalists thought, opposed to all government, since government could not exist without such restraint.

On the other hand, the Republicans considered the Federalists equally inconsistent in their attempts to involve the country in a European war by making an alliance with England

and in acting in an unfriendly manner toward France. The leader of the Federalists was Alexander Hamilton, and it was he who had declared in the Federal Convention that the British constitution was the best in the world, and avowed his preference for an aristocratic republic and a highly centralized government; and the aim of all his measures was to break down the barriers placed by the Constitution in the way of the attainment of these objects.* The Republicans claimed that the Federalists intended to increase the debts of the nation so that they might have a "corrupt squadron" ready to carry out their measures. To expect that a party with such a leader would sympathize with a country fighting for liberty against a country which embodied all his ideals was, the Republicans thought, utterly absurd.

It was unfortunate for the Republican party and for Adams, too, that Congress did not adjourn after considering the French matter. Had it done so, the Federalist party might not have dated its downfall from the early days of July, 1798. Though the Federalists decided not to declare war against France, they passed measures that could have been justified, if at all, only by a state of war.

* "Hamilton is really a colossus to the anti-republican party. Without numbers, he is a host within himself. * * * We have only middling performances to oppose to him. In truth, when he comes forward, there is nobody but yourself [Madison] who can meet him."—Ford's ed. of *Jefferson's Writings*, vol. vii., p. 232.

In spite of the fact that the majority of the people were known to be in favor of the enforcement of laws for the preservation of order, in spite of the fact that the country was enthusiastically supporting the government and had declared its readiness to defend itself to the last extremity, the Federalists stained the statute books of the Union with some of the most outrageous laws ever placed thereon. As a result of the French dispute, the Republican party in Congress had now lost considerable ground, and some of the members had retired from active duty, biding the time when the tide of public opinion should change. On April 26, 1798, Jefferson wrote to Madison, saying:

"In this state of things, they [the Federalists] will carry what they please. One of the war party, in a fit of ungarded passion, declared some time ago they would pass a citizen bill, an alien bill, & a sedition bill; accordingly, some days ago, Coit laid a motion on the table of the H[ouse] of R[epresentatives] for modifying the citizen law. Their threats pointed at Gallatin, & it is believed they will endeavor to reach him by this bill. Yesterday, Mr. Millhouse laid on the table of the Senate a motion for giving power to send away suspected aliens. This is understood to be meant for Volney & Collot. But it will not stop there when it goes into a course of execution. There is now only wanting, to accomplish the whole declaration before mentioned, a sedition bill, which we shall certainly see proposed. The object of that, is the suppression of the whig presses. Bache's has been particularly named. That paper & also Carey's totter for want of subscriptions. We should really exert ourselves to procure them, for if these papers fall, republicanism will be entirely brow-beaten."*

* Ford's ed. of *Jefferson's Writings*, vol. vii., pp. 244-245. In reply, May 5, Madison said: "It is to be hoped, however, that any arbitrary attacks on the freedom of the press will find virtue

The fears of Jefferson were realized on June 26, 1798, when James Lloyd, of Maryland, presented a bill in the Senate to define and punish the crime of sedition and also to define the exact meaning of the word treason.* One section declared every Frenchman to be an enemy to the United States, and that to aid or comfort him was treason, which should be punished with death; a second defined misprision of treason;† a third defined the punishment to be inflicted upon those who conspire against the laws of the United States; and a fourth provided that punishment or fine should be inflicted upon those who, in speech or in print, upheld France or defamed the government of the United States.‡ The Senate, however, struck out the first and second sections, but passed the third and fourth with amendments, sending them to the House on July 4. The latter body then dropped the fourth section and substituted a new one, and, after fixing March, 1801, as the date when the act should expire and providing that truth might be admit-

enough remaining in the public mind to make them recoil on the wicked authors."—*Madison's Works* (Congress ed.), vol. ii., p. 139.

* *Annals of Congress*, 5th Congress, 2d session, vol. i., pp. 589-590.

† The knowledge and concealment of treason without any degree of assent to it.

‡ The most objectionable features of this bill so alarmed Hamilton that on June 29, 1798, he wrote to Wolcott: "Let us not establish a tyranny; energy is a very different thing from violence."—*Hamilton's Works*, vol. vi., p. 307; Gibbs, *Memoir of Wolcott*, vol. ii., p. 68.

ted as evidence in libel suits, passed the bill July 12.*

The Senate was encouraged to pass the bill by a strange series of recent events. A few days previously Bache's paper, the *Aurora*, had published a letter written by Talleyrand to the American envoys at Paris, before Congress had even received an intimation that such a letter had been sent to the President. The Federalists naturally concluded that Bache was a spy for the Directory and in correspondence with Talleyrand. In support of their accusations, they published statements by John Kidder, William Lee, and Samuel M. Hopkins, by whom various letters had been brought from France to the United States. Kidder said that he had dropped a packet given him by Lee and consigned to Bache in the post-office at New York. Lee said he knew nothing of the contents of the package addressed to Bache, but that the others bearing the French seal had been turned over to the government. Bache then issued a statement that the French letter had been given him by a resident of Philadelphia and that he had not yet received the package from France. Three days later a messenger from the office of the Secretary of State delivered the package to Bache, which, on being

opened, was found to contain nothing but a couple of French pamphlets.

Bache was very indignant and reckless of speech in giving his version of the affair and the Federalist attacked upon him. He charged that Oliver Wolcott had gone to New York to seize the package, and, if it contained damaging evidence, to confiscate it, but if not, to make away with it and say that it had been lost. Meanwhile Bache was to be charged with being a hired agent of France. But the plans of the government were frustrated by the statements of Kidder and Lee, the latter declaring that the letters had been given to the government. The secretaries were thus made answerable and the packets were produced. Bache then characterized his traducers as creatures of the Executive and subject to his will.* He was immediately arrested on a charge of libelling the President, Congress, and the Secretary of State, and on the same day, June 26, Lloyd introduced his bill entitled "An act, in addition to the Act entitled 'An act for the punishment of certain crimes against the United States.'" This was known as the Sedition Law.

Meanwhile two other acts had been passed which were somewhat obscured by the Sedition Law. On April 17, 1798, Coit of Connecticut introduced in the House a resolution to appoint a committee to consider the

* *Annals of Congress*, 5th Congress, 2d session, vol. i., pp. 599, 607, 609. See also McMaster, vol. ii., pp. 389-390; Schouler, *United States*, vol. i., pp. 407-408.

* McMaster, vol. ii., pp. 390-393.

expediency of suspending or amending the existing naturalization law.*

On May 15, this committee reported three resolutions, one of which favored the imposition of a longer term of residence on an alien before he could be naturalized.† The first two resolutions were agreed to‡ and referred to a committee, which on May 15 introduced a bill to amend the naturalization law.¶ This bill was finally passed on May 22§ and sent to the Senate, where an amended bill was reported by a committee on June 8. The bill was agreed to on the 11th, and, after further amendment, was passed on the 12th by a vote of 13 to 8. The House agreed to the Senate's amendment on the 13th, and on the 18th the act was approved.¶ This act amended the naturalization laws by requiring a residence of fourteen years in order to become a citizen, and that foreigners seeking naturalization should declare their intentions five years prior to obtaining papers. Alien enemies were debarred from becoming citi-

zens. Had there been some constitutional means of driving the obstructive Gallatin out of public life, the Federalists would gladly have seized upon it; for, said Harper, "It is high time for us to recover from the mistake with which we set out under the Constitution of admitting foreigners to citizenship; for nothing but birth should entitle a man to citizenship, and we ought so to declare it." Otis then introduced a resolution that no alien-born should thereafter hold office under the government, unless a citizen of the United States. But as the Constitution itself placed limitations upon office-holding, the majority was content to impose a long term of probation for citizenship, adding to which would be seven to nine years necessary before an alien-born could become eligible for Congress.*

The second act (introduced in the Senate by Hillhouse, of Connecticut) was an "Act concerning Aliens," known as the Alien Act, which passed the Senate June 8 by a vote of 16 to 7 and was taken up by the House on June 19. The Federalists believed that the French employed agents in this country to divide the American people and that, unless the President were given the right to deport these aliens, their success was far from impossible. To little purpose did Gallatin tell the Federalists that, since the Whiskey Rebellion, the people had cheerfully submitted to the laws and that attachment to the Constitu-

* *Annals of Congress*, 5th Congress, 2d session, vol. ii., pp. 1427, 1454.

† *Annals*, pp. 1566-1567.

‡ For the debate, see *Annals*, pp. 1567-1582; Benton, *Abridgment*, vol. ii., 253-261.

¶ *Annals*, p. 1707.

§ See *Annals*, pp. 1776-1783; Benton, *Abridgment*, pp. 276-280.

¶ For text of the Naturalization Act of June 18, see *United States Statutes-at-Large*, vol. i., pp. 566-569; MacDonald, *Select Documents*, pp. 138-141. For the most important sections, see Appendix I. at the end of the present chapter. The act was repealed by the act of April 14, 1802 (*Statutes-at-Large*, vol. ii., pp. 153-155).

* Schouler, *United States*, vol. i., pp. 404-405.

tion was universal. The heated minds of the excited Federalists conjured up visions of plots to disrupt the government, and they thought that all aliens should be brought within the reach of the law in order to save it. Hence, after debate, the bill was amended and passed by the House on June 21 by a vote of 46 to 40. The Senate concurred in the amendments on June 22, and on June 25 the bill was signed by the President.* This act provided that it was lawful for the President to order out of the country any alien he thought dangerous to the peace and safety of the country,† and that such alien, on his refusal to depart within the time named in the order, be subject to imprisonment for a term not exceeding three years and forfeit forever his right to citizenship in the United States.‡

* For text, see *United States Statutes-at-Large*, vol. i., pp. 570-572; MacDonald, *Select Documents*, pp. 141-143. See also Appendix II. at the end of the present chapter.

† An alien might be licensed by the President to remain in the country, if he could secure acceptable security. If he should deem it for the public safety, the President could forcibly deport aliens who were arrested under the act; and if an alien so arrested and deported should return voluntarily without permission, he might be imprisoned as long as the President thought public safety required it. Upon their arrival, masters of vessels were required to report all alien passengers. Provision was made, however, that the property rights of those deported should be respected. (Schouler, *United States*, vol. i., pp. 405-407).

‡ McMaster, vol. ii., pp. 393-396. Madison calls the bill "a monster that must forever disgrace its parents."—Letter to Jefferson, May 20, 1798. Madison's *Works* (Congress ed.) vol. ii., p. 142.

Meanwhile, on May 18, a "bill respecting alien enemies" had been introduced in the House, on the 22d was considered in Committee of the Whole, and by a vote of 46 to 44 was recommitted. On June 8 the Committee reported an amended bill and on the same day the "Act concerning Aliens" was received from the Senate. The alien enemies bill was considered on the 25th, passed the House the next day, and then was sent to the Senate. On the 27th the bill was referred by the latter to a committee, which, on July 2, reported an amended bill that was passed the next day. The House concurred in the Senate's amendments and on July 6 the act was approved.* It provided that, if war should be declared between the United States and any foreign power, or in case of an invasion, the citizens of the hostile nation, on proclamation by the President, might be imprisoned or deported. Sullivan says: "As this law respecting aliens was made at the suggestion of the President,† it furnished a new and prolific theme of reproach. It was called by the opposition a British measure; a servile

* For debates, see *Annals of Congress*, 5th Congress, 2d session, vol. ii., pp. 1785-1796, 1896-1897, 1974-2029; Benton, *Abridgment of Debates*, vol. ii., pp. 280-286, 301-302. For text, see *United States Statutes-at-Large*, vol. i., pp. 577-578; MacDonald, *Select Documents*, pp. 144-146. See also Appendix III. at the end of the present chapter.

† Mr. C. F. Adams (John Adams, *Works*, vol. i., pp. 560-562) asserts that his grandfather had no hand in suggesting or procuring the passage of the Alien and Sedition laws.

copying of the forms of kingly despotism; and an incontestable proof of design to assimilate our government to that of England, and eventually to arrive at monarchy.”* The Republicans insisted that the power possessed by the President under these acts not only could be exercised to the injury of native citizens, but was intended to be used in that manner, notwithstanding the limitations of the acts to aliens.

The Sedition Law was then taken up and rapidly pushed forward.† In the Senate, where Federalism was rampant, it passed on July 4 by a vote of 18 to 6. As originally introduced, the first section declared that the French people were enemies to the United States, and that adherence to them, or giving them aid and comfort, was punishable with death. Anyone who in any manner should attempt to justify the hostile attacks of the French or to defame and weaken the government of the United States by stating that the government or its officers were influenced by motives hostile to the country or to the liberties or happiness of the people, might be punished by fine or imprisonment. This was a little too much even for the fanatical Federalist Senate, whose power had not reached a point where it could pass a bill in that form.

Hence, the first section was stricken out. Had the bill become a law in its first form, the Federalists not only could have silenced the Republican press, but, through the vagueness of its language, could have treated as crimes every form of opposition to their measures. The Republicans would not have been able to express a single sentiment true to their honest beliefs without being subject to fine and imprisonment. When Livingston declared that the principle of the Alien Bill “would have disgraced the age of Gothic barbarity” the Federalist Otis declared that remarks such as these were “evidence of a seditious disposition.”* Had Livingston delivered his speech anywhere but on the floor of Congress, it would have been a crime under the bill as it finally passed the Senate. By a vote of 44 to 41 it passed the House on July 10 and became a law on July 14.† Its duration was limited to a term of two years. It was deemed a high misdemeanor “unlawfully to combine and conspire” against or in opposition to properly authorized measures of the government, or laws of the United States, or “to commit, advise, or attempt to procure any insurrection, riot, or unlawful assembly or combinations,” in order to prevent the performance of his duties by any government officer.

* See Madison's letter, *Madison's Works* (Congress ed.), vol. ii., p. 142.

† For the debate, see *Annals of Congress*, vol. ii., pp. 1954-1977, 2093-2116, 2134-2171; Benton, *Abridgment of Debates*, vol. ii., pp. 305-310, 316-319.

* Schouler, *United States*, vol. i., p. 408.

† For text, see *United States Statutes-at-Large*, vol. i., pp. 596-597; MacDonald, *Select Documents*, pp. 146-148. See also Appendix IV. at the end of the present chapter.

Such acts should be punished as high misdemeanor by fines not exceeding \$5,000, imprisonment for not less than six months and not more than five years, and binding to good behavior as the court might determine. The second section provided that it was unlawful to print or publish false, scandalous or malicious writings, or assist in writing, printing, uttering, or publishing such false, scandalous or malicious writings against the Government of the United States, or either House of Congress or the President with the intent to defame them. For such acts, persons convicted should be fined not more than \$2,000 or imprisoned for not more than two years. The third section provided that truth constituted good evidence in defence of libel.

It was said that there had been great provocation for the passage of this act, that the papers had indulged in falsehood, scandalous abuse, and other maliciousness with a freedom which it is almost impossible to conceive; but, on the other hand, the malice, vehemence, and indecency were by no means monopolized by the Republican press. It cannot be conceived by any stretch of imagination that the intent of the Sedition Law was to restrain Federalist papers. It was not the abuse itself to which the Federalists objected, but abuse directed *at them*. The effects of the alien acts soon became manifest. In a letter to James Madison, dated May 3 (before the passage of the Alien

Act), Jefferson said: "The threatening appearances from the Alien bills have so alarmed the French who are among us, that they are going off. A ship, chartered by themselves for this purpose, will sail within a fortnight for France, with as many as she can carry. Among these I believe will be Volney, who has in truth been the principal object aimed at by the law."*

The principal objection was to the Sedition Law, which afforded abundant opportunity to the opposition for attacking the administration. A measure more unwise could no possibly be ventured upon by any political party than that which either restrains or appears to restrain the fullest liberty of the press, as the Federalists soon learned. Hamilton saw that the passage of the act would make many enemies for the administration and begged the Federalists not to set up tyranny; but they had their hearts bent on havoc and would not heed his advice. Marshall, also almost alone among the Federalists, disapproved of the Alien and Sedition Laws, and before this opposition the New England Federalists were disposed to question the soundness of his Federalism. Goodhue wrote: "I confess nothing has given me more surprise and regret than that General Marshall should so far degrade himself as to fan the flame of opposition to government by giving his opinion so

* Ford's ed. of Jefferson's *Writings*, vol. vii., p. 248; see also pp. 257, 262.

decidedly against the Alien and Sedition Laws." * As a consequence, from the day the act was passed the Federal party gradually sank into utter ruin. In speaking of the Alien and Sedition Laws, John Quincy Adams says:

"If Jefferson and Madison deemed the alien and sedition acts plain and palpable infractions of the Constitution, Washington and Patrick Henry held them to be good and wholesome laws. These opinions were perhaps all formed under excitements and prepossessions which detract from the weight of the highest authority. The alien act was passed under feelings of honest indignation at the audacity with which foreign emissaries were practising within the bosom of the country upon the passions of the people against their own government. The sedition act was intended as a curb upon the publication of malicious and incendiary slander upon the president, or the two Houses of Congress, or either of them. But they were restrictive upon the personal liberty of foreign emissaries, and upon the political licentiousness of the press. The alien act produced its effect by its mere enactment, in the departure from the country of the most obnoxious foreigners, and the power conferred upon it by the president was never exercised. The prosecutions under the sedition act did but aggravate the evil which they were intended to repress. Without believing that either of those laws was an infraction of the Constitution, it may be admitted, without disparagement to the authority of Washington and Henry, or of the Congress which framed the acts, that they were not good and wholesome laws, inasmuch as they were not suited to the temper of the people." †

* *Life and Letters of George Cabot*, p. 179.

† *Lives of Madison and Monroe*, pp. 73-74. Condensed statements of the force and workings of these acts will be found in Lalor's *Cyclopædia*, vol. i., p. 58; Van Buren, *Political Parties*, p. 264; Cooke, *Constitutional History*, vol. i., p. 175. For feeling in the west, see Albach, *Annals of the West*, p. 747; and Warfield, *The Kentucky Resolutions of 1798*. Patrick Henry was their advocate (Garland, *Life of Randolph*, vol. i., chapter xx), while frank acknowledgments of the blunder and denunciations will be found in Morse, *Jefferson*, p. 193, and John Adams, p. 287; Schurz, *Henry*

After Congress had adjourned, and it was certain that the country was not in any danger of an invasion, the Federalists and Republicans turned their attention to politics and engaged in measures for supporting or attacking the administration. Public sentiment had turned against the Federalists. The Republicans knew this and were determined to take advantage of it. Under the guidance of Jefferson and Madison, they prepared vigorously to assail the Alien and Sedition Laws, centering their attack on these chiefly because they offered the best opportunity for the most stirring speeches, pamphlets, and resolutions, and the best political capital generally. Petitions for their repeal were circulated, and those against whom the Sedition Law had operated were elevated to the rank of martyrs. There were numerous other acts of the Federalists which the Republicans could not abide — indeed, as they scanned the work of Congress, there was scarcely an act that did not seem to them iniquitous. Naturalization, direct taxes, public loans, the excise and stamp acts, standing armies and navies, speculation in offices of public trust, etc., were topics which afforded abundant points of attack, which were used with telling effect.*

Clay, vol. i., p. 32; Randall, *Jefferson*, vol. ii., chapter viii.; Parton, *Life of Jefferson*, chapter lviii. For their effect on the newspapers, see Hudson, *Journalism*, pp. 145, 159.

* McMaster, vol. ii., pp. 417-418.

The petitions for the repeal of the Alien and Sedition Laws took all sorts of forms and shapes. Some merely felt alarmed because freedom of thought was restricted and freedom of speech proscribed, trial by jury abolished, and the President armed with a dangerous power; others said the acts were tyrannical, repugnant to the principles on which the government had been founded, were premature, unconstitutional and infringed on the rights of the people; and some of the legislatures were requested to memorialize Congress on the subject. This exactly accorded with the desires of the Republicans, and they resolved that the legislatures which they controlled should make a determined stand against encroachments on State rights by the Federal government. The publication of the Kentucky resolutions (to be mentioned later) elicited a still larger batch of petitions and remonstrances. All sorts of politicians, foreign-born citizens, aliens and others shouted condemnation; and in some cases the petitions contained more than 1,500 signatures. Those that came from Pennsylvania bore over 18,000 names, and in more than one instance getting these signatures led to riot.*

The third session of the Fifth Congress should have convened on December 3, 1798, but the scanty attendance of the members delayed the opening until the 8th, when the Presi-

dent's speech was delivered.* Hardly had Congress convened when scores of the above mentioned memorials commenced to pour in.† They were all referred to a committee, which reported on February 21, 1799.‡ That the committee found that, almost without exception, the memorials attacked the constitutionality of the Alien and Sedition Laws because Congress was not given power by the Constitution to remove aliens, to abolish trial by jury, or to abridge the liberty of the press.¶ The committee considered the various arguments against the laws and then reported to Congress, at the same time submitting three resolutions: that the public interests would not be conserved by repealing the Alien and Sedition Laws, or any laws respecting the army and navy, or any of the revenue laws.§ These three resolutions were taken under discussion on February 25, 1799. Gallatin made a long and able speech against the first, but it was carried.¶ Nicholas

* Richardson, *Messages and Papers*, vol. i., pp. 271-275.

† *Annals of Congress*, 5th Congress, 3d session, vol. iii., pp. 2798-2803, 2897, 2883-2907, 2934-2935, 2957-2959.

‡ See *American State Papers, Miscellaneous*, vol. i., pp. 181-184.

¶ For the various arguments, see *Annals of Congress*, 5th Congress, 3d session, vol. iii., pp. 2426-2437, 2445-2456; McMaster, vol. ii., pp. 424-426.

§ For the complete report, see *Annals of Congress*, 5th Congress, 3d session, vol. iii., pp. 2985-2993.

¶ *Annals*, pp. 2993-3002; Stevens, *Albert Gallatin*, pp. 162-163.

* McMaster, vol. ii., pp. 423-424.

then spoke against the second,* but the Federalists treated him with great disrespect—laughing, coughing and talking at the top of their voices until Nicholas was “coughed down.”† Livingston then spoke for a few minutes, but, on the pretext that “what he was saying was not to the question,” he was finally silenced by the Speaker, who thereupon put the question on the second resolution, which was carried by a vote of 52 to 48. The question on the third resolution was carried without a division, and the House then agreed to the action of the committee on all three resolutions, affirming the first two by votes of 52 to 48 in each case, and the third by 61 ayes.‡

The first to be tried under the Sedition Law was Matthew Lyon, of Vermont, who several times had brought himself to the notice of the country. During the debate on the bill, he had written a letter which, after Adams signed the bill, was read by the subscribers of the *Vermont Gazette*. In this letter Lyon said that in the fast-day proclamation “the sacred name of religion” was used “as a state engine to make mankind hate and persecute each other,” and that “every consideration of the public welfare was swallowed up in a continual grasp for power, an un-

bounded thirst for ridiculous pomp, foolish adulation, and selfish avarice.”* When Lyon returned home to begin his campaign for re-election, to Congress, he was arrested for libel on three charges; first, on account of this letter; second, for reading at a political meeting some extracts of a letter from Joel Barlow to Abraham Baldwin, in which occurred many objectionable passages; and third, for abetting the publication of the Barlow letter in full. At the trial Lyon was convicted, sentenced to a fine of \$1,000, and sent to jail for four months.† Owing to the interference with the Congressional canvass, there was no choice made at the first election, but on a second trial Lyon was re-elected, though he was then in prison. Vermont thus lost her representation on the floor of the House for most of the winter, and this situation was brought to the notice both of Congress and of the Executive. As Lyon had now become a poor man, a petition, signed by several thousand persons, was presented to the President requesting that the heavy fine be remitted. But on being informed that the petition did not emanate from Lyon, Adams refused to interfere, saying that “penitence must precede pardon.” When finally near the close of the session, Lyon made his appearance on the floor of

* *Annals*, pp. 3002–3014.

† Ford's ed. of *Jefferson's Writings*, vol. vii., p. 371.

‡ For the debates, see Benton, *Abridgment of Debates*, vol. ii., pp. 373–385. See also McMaster, vol. ii., pp. 426–427.

* Schouler, *United States*, vol. i., p. 432.

† McMaster, vol. ii., pp. 398–400. For prosecutions under the Sedition Act, see Wharton, *State Trials*, pp. 322–333, 345, 659, 684, 688.

the House, an attempt was made to expel him on the ground that he had been convicted for sedition, but the resolution failed to receive the necessary two-thirds vote.* A great deal of excitement and violence on both sides occurred after this trial, partisan passion exhibiting itself in many foolish acts.

During the first session of the Sixth Congress, the Senate gave another example of tyranny. James Ross, of Pennsylvania, introduced a motion that a committee be appointed to consider measures for deciding disputed Presidential elections, and for determining as to whether electoral votes were legal or illegal. A bill was reported and had passed the second reading, when it was published in full in the *Aurora*. It provided that, after the electoral votes had been counted by Congress, on the second Wednesday in February following the Presidential election, the papers should be turned over to a committee consisting of the Chief Justice and six members from each branch of Congress, who should examine and decide upon the qualifications of the electors and the manner in which they had cast their votes; who should make investigations and ascertain if the election of the electors was legal; who should determine which electoral votes should and which

should not be counted; and whose decision was to be final. The purpose of this shameful bill was apparent to all. The Presidential election was approaching, and the Federalists needed the electoral votes of Pennsylvania. At this time there was a bill before the Pennsylvania Legislature to change the old method of choosing electors, by dividing the State into electoral districts, each of which was to choose one elector. If this bill could be passed through the State Legislature and the electoral-count bill through Congress, the Federalists were assured of success; for it would be an easy matter to challenge and disqualify the Republican electors before the Electoral Committee and give their votes to the Federal electors.*

William Duane, editor of the *Aurora*, pointed out the iniquitous features of the bill and the cupidity of the Federalists so boldly that the Federalist Senators, becoming enraged, determined upon revenge. They caused the Senate to appoint a Committee of Privileges, which decided that the publication of the bill by the editor of the *Aurora* was "false, defamatory, scandalous, and malicious," and recommended that he be punished, to which recommendation the Senate agreed. Duane, being summoned, denied the jurisdiction of the Senate and was allowed to procure counsel. The Senate decided,

* For the debate in Congress, see *Annals of Congress*, 5th Congress, 3d session, vol. iii., pp. 2954, 2959-2973. See also Schouler, *United States*, vol. i., p. 432.

* McMaster, vol. ii., pp. 462-463.

however, that Duane's counsel could speak only in excuse or extenuation of the crime or on disputed questions of fact.* Alexander J. Dallas and Thomas Cooper were chosen by Duane as his counsel; but, in reply to his letters asking them to serve, both Dallas and Cooper wrote that to appear in the Senate under the conditions imposed — with gags in their mouths — would be disgraceful to themselves and degrading to their profession. Deprived of counsel, Duane was found guilty of contempt, and a warrant was issued for his arrest; but he kept out of reach of the sergeant-at-arms and thus retained his freedom.†

The Senate next considered means to punish his counsel for their insolence. It decided not to proceed against Dallas, as the caustic remarks in his letter were the only evidence of sedition procurable against him. But Cooper, being an Englishman and having attacked the President and the Federalist party in an address made some time before, could be reached by both the Alien and the Sedition Laws. He was indicted, brought to trial before Judge Samuel Chase‡ on April 11, and convicted.

* For the debate in the Senate, see Benton, *Abridgment of Debates*, vol. ii., pp. 408-426; *Annals of Congress*, 6th Congress, 1st session, pp. 63, 68-96, 104-106, 109, 112-119, 121-125.

† McMaster, vol. ii., pp. 464-465; Schouler, *United States*, vol. i., pp. 474-475.

‡ Whom McMaster calls "as violent and intemperate a partisan, and therefore, as unjust a judge, as ever disgraced the bench of the Circuit

Before imposing sentence, Chase asked if the Republican party or Cooper would pay the fine; for if the former, he would impose an extreme penalty, but if the latter, he would give only a light sentence. Cooper's counsel declared that he alone was to be considered and was thereupon sentenced to a fine of \$400 and six months' imprisonment.

By this time ten editors and printers had been convicted under the Sedition Law: Charles Holt, of the *New London (Conn.) Bee*, who was tried for libel and convicted; Matthew Lyon; Anthony Haswell, printer of the *Vermont Gazette*, who was fined \$200 and imprisoned for sixty days; Benjamin F. Bache, who died before his trial; Abijah Adams, of the *Independent Chronicle*; Luther Baldwin and Thomas Frothingham of the *New London Bee*; Thomas Cooper; William Duane; and James Thomson Callender.* Callender had published a pamphlet, entitled *The Prospect before Us*, in which he exposed "the misconduct of the President," and "the multiplied corruptions of the Federal Government." Some of the attacks were considered so libelous that Callender was arrested and the case called for trial at Richmond toward the close of May, though the actual trial did not take place before the first part of June. One of the

Court of the United States."— Vol. ii., p. 466. See also Schouler's opinion, *United States*, vol. i., p. 460.

* McMaster, vol. ii., pp. 467-468.

three attorneys employed by Callender was the subsequently renowned William Wirt. At the trial Judge Chase was so domineering that Callender's counsel threw down their briefs and walked out of the court. Being found guilty, Callender was sentenced to a fine of \$200 and imprisonment for nine months,* and was required to give securities for good behavior.

At this trial the lawyers for the defence brought out the fact that Judge Chase has commanded the marshal to see that none of the rascals called Democrats were allowed to serve as jurors. This convinced

the Republicans that the partisan Federalist judges were packing the juries, and an outcry against the courts immediately arose. Thereupon Charles Pinckney introduced a bill in the Senate in January of 1800, providing that the juries of the United States Courts should be drawn by lot (which Madison says was "a great improvement on the regulation in force"*) and specifying the manner in which the names should be drawn. The Senate, however, would send to the House a bill providing only that in selecting juries the Federal Courts should follow the custom prevailing in the State where such courts were held.†

APPENDIX TO CHAPTER XIV.

I.—IMPORTANT SECTIONS OF THE NATURALIZATION ACT, JUNE 18, 1798.

An Act supplementary to and to amend the act, intituled "An act to establish an uniform rule of naturalization; and to repeal the act heretofore passed on that subject."

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That no alien shall be admitted to become a citizen of the United States, or of any state, unless in the manner prescribed by the act, intituled "An act to establish an uniform rule of naturalization; and to repeal the act heretofore passed on that subject," he shall have declared his intention to become a citizen of the United States, five years, at least, before his admission, and shall, at the time of his application to be admitted, declare and prove, to the satisfaction of the court having jurisdiction in the case, that he has resided within the United States fourteen years, at least, and within the state or territory where, or for which such court is at the time held, five years, at

least, besides conforming to the other declarations, renunciations and proofs, by the said act required, any thing therein to the contrary hereof notwithstanding: *Provided*, that any alien, who was residing within the limits, and under the jurisdiction of the United States, before the twenty-ninth day of January, one thousand seven hundred and ninety-five, may, within one year after the passing of this act—and any alien who shall have made the declaration of his intention to become a citizen of the United States, in conformity to the provisions of the act‡ may, within four years after having made the declaration aforesaid, be admitted to become a citizen, in the manner prescribed by the said act, upon his making proof that he has resided five years, at least, within the

* Madison's *Works* (Congress ed.). vol. ii., p. 156.

† *Annals of Congress*, 6th Congress, 1st session, pp. 35–41, 107, 152, 168, 170; McMaster, vol. ii., pp. 472–473.

‡ Of January 29, 1795.

* McMaster, vol. ii., pp. 468–472.

limits, and under the jurisdiction of the United States: *And provided also*, that no alien, who shall be a native, citizen, denizen or subject of any nation or state with whom the United States shall be at war, at the time of his application, shall be then admitted to become a citizen of the United States.

* * * * *

SEC. 4. *And be it further enacted*, That all white persons, aliens, (accredited foreign ministers, consuls, or agents, their families and domestics, execepted) who, after the passing of this act, shall continue to reside, or who shall arrive, or come to reside in any port or place within the territory of the United States, shall be reported, if free, and of the age of twenty-one years, by themselves, or being under the age of twenty-one years, or holden in service, by their parent, guardian, master or mistress in whose care they shall be, to the clerk of the district court of the district, if living within ten miles of the port or place, in which their residence or arrival shall be, and otherwise, to the collector of such port or place, or some officer or other person there, or nearest thereto, who shall be authorized by the President of the United States, to register aliens: And report, as aforesaid, shall be made in all cases of residence, within six months from and after the passing of this act, and in all after cases, within forty-eight hours after the first arrival or coming into the territory of the United States, and shall ascertain the sex, place of birth, age, nation, place of allegiance or citizenship, condition or occupation, and place of actual or intended residence within the United States, of the alien or aliens reported, and by whom the report is made. * * * And the clerk of each district court shall, during one year from the passing of this act, make monthly returns to the department of State, of all aliens registered and returned, as aforesaid, in his office.

SEC. 5. *And be it further enacted*, That every alien who shall continue to reside, or who shall arrive, as aforesaid, of whom a report is required as aforesaid, who shall refuse or neglect to make

such report, and to receive a certificate thereof, shall forfeit and pay the sum of two dollars; and any justice of the peace, or other civil magistrate, who has authority to require surety of the peace, shall and may, on complaint to him made thereof, cause such alien to be brought before him, there to give surety of the peace and good behavior during his residence within the United States, or for such term as the justice or other magistrate shall deem reasonable, and until a report and registry of such alien shall be made, and a certificate thereof, received as aforesaid; and in failure of such surety, such alien shall and may be committed to the common gaol, and shall be there held, until the order which the justice or magistrate shall and may reasonably make, in the premises, shall be performed. And every person, whether alien, or other, having the care of any alien or aliens, under the age of twenty-one years, or of any white alien holden in service, who shall refuse and neglect to make report thereof, as aforesaid, shall forfeit the sum of two dollars, for each and every such minor or servant, monthly, and every month, until a report and registry, and a certificate thereof, shall be had, as aforesaid.

SEC. 6. *And be it further enacted*, That in respect to every alien, who shall come to reside within the United States after the passing of this act, the time of the registry of such alien shall be taken to be the time when the term of residence within the limits, and under the jurisdiction of the United States, shall have commenced, in case of an application by such alien, to be admitted a citizen of the United States; and a certificate of such registry shall be required, in proof of the term of residence, by the court to whom such application shall and may be made.

SEC. 7. *And be it further enacted*, That all and singular the penalties established by this act, shall and may be recovered in the name, and to the use of any person, who will inform and sue for the same, before any judge, justice, or court, having jurisdiction in such case, and to the amount of such penalty, respectively.

II.—THE ALIEN ACT, JUNE 25, 1798.

An Act concerning Aliens.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That it shall be lawful for the President of the United States at any time during the continuance of this act, to

order all such aliens as he shall judge dangerous to the peace and safety of the United States, or shall have reasonable ground to suspect are concerned in any treasonable or secret machinations against the government thereof, to depart out of the territory of the United States, within such time as shall be expressed in such order, which

order shall be served on such alien by delivering him a copy thereof, or leaving the same at his usual abode, and returned to the office of the Secretary of State, by the marshal or other person to whom the same shall be directed. And in case any alien, so ordered to depart, shall be found at large within the United States after the time limited in such order for his departure, and not having obtained a *license* from the President to reside therein, or having obtained such *license* shall not have conformed thereto, every such alien shall, on conviction thereof, be imprisoned for a term not exceeding three years, and shall never after be admitted to become a citizen of the United States. *Provided always, and be it further enacted*, that if any alien so ordered to depart shall prove to the satisfaction of the President, by evidence to be taken before such person or persons as the President shall direct, who are for that purpose hereby authorized to administer oaths, that no injury or danger to the United States will arise from suffering such alien to reside therein, the President may grant a *license* to such alien to remain within the United States for such time as he shall judge proper, and at such place as he may designate. And the President may also require of such alien to enter into a bond to the United States, in such penal sum as he may direct, with one or more sufficient sureties to the satisfaction of the person authorized by the President to take the same, conditioned for the good behavior of such alien during his residence in the United States, and not violating his license, which license the President may revoke, whenever he shall think proper.

SEC. 2. *And be it further enacted*, That it shall be lawful for the President of the United States, whenever he may deem it necessary for the public safety, to order to be removed out of the territory thereof, any alien who may or shall be in prison in pursuance of this act; and to cause to be arrested and sent out of the United States such of those aliens as shall have been ordered to depart therefrom and shall not have obtained a license as aforesaid, in all cases where, in the opinion of the President, the public safety requires a speedy removal. And if any alien so removed or sent out of the United States by the

President shall voluntarily return thereto, unless by permission of the President of the United States, such alien on conviction thereof, shall be imprisoned so long as, in the opinion of the President, the public safety may require.

SEC. 3. *And be it further enacted*, That every master or commander of any ship or vessel which shall come into any port of the United States after the first day of July next, shall immediately on his arrival make report in writing to the collector or other chief officer of the customs of such port, of all aliens, if any, on board his vessel, specifying their names, age, the place of nativity, the country from which they shall have come, the nation to which they belong and owe allegiance, their occupation and a description of their persons, as far as he shall be informed thereof, and on failure, every such master and commander shall forfeit and pay three hundred dollars, for the payment whereof on default of such master or commander, such vessel shall also be holden, and may by such collector or other officer of the customs be detained. And it shall be the duty of such collector or other officer of the customs, forthwith to transmit to the office of the department of state true copies of all such returns.

SEC. 4. *And be it further enacted*, That the circuit and district courts of the United States, shall respectively have cognizance of all crimes and offences against this act. And all marshals and other officers of the United States are required to execute all precepts and orders of the President of the United States issued in pursuance or by virtue of this act.

SEC. 5. *And be it further enacted*, That it shall be lawful for any alien who may be ordered to be removed from the United States, by virtue of this act, to take with him such part of his goods, chattels, or other property, as he may find convenient; and all property left in the United States by any alien, who may be removed, as aforesaid, shall be, and remain subject to his order and disposal, in the same manner as if this act had not been passed.

SEC. 6. *And be it further enacted*, That this act shall continue and be in force for and during the term of two years from the passing thereof.

III.—THE ALIEN ENEMIES ACT, JULY 6, 1798.

An Act respecting Alien Enemies.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That whenever there shall be a declared war between the United States and any foreign nation or government, or any invasion or predatory incursion shall be perpetrated, attempted, or threatened against the territory of the United States, by any foreign nation or government, and the President of the United States shall make public proclamation of the event, all natives, citizens, denizens, or subjects of the hostile nation or government, being males of the age of fourteen years and upwards, who shall be within the United States, and not actually naturalized, shall be liable to be apprehended, restrained, secured and removed, as alien enemies. And the President of the United States shall be, and he is hereby authorized, in any event, as aforesaid, by his proclamation thereof, or other public act, to direct the conduct to be observed, on the part of the United States, towards the aliens who shall become liable, as aforesaid; the manner and degree of the restraint to which they shall be subject, and in what cases, and upon what security their residence shall be permitted, and to provide for the removal of those, who, not being permitted to reside within the United States, shall refuse or neglect to depart therefrom; and to establish any other regulations which shall be found necessary in the premises and for the public safety: Provided, that aliens resident within the United States, who shall become liable as enemies, in the manner aforesaid, and who shall not be chargeable with actual hostility, or other crime against the public safety, shall be allowed, for the recovery, disposal, and removal of their goods and effects, and for their departure, the full time which is, or shall be stipulated by any treaty, where any shall have been between the United States, and the hostile nation or government, of which they shall be natives, citizens, denizens or subjects; and when no such treaty shall have existed, the President of the United States may ascertain and declare

such reasonable time as may be consistent with the public safety, and according to the dictates of humanity and national hospitality.

SEC. 2. *And be it further enacted,* That after any proclamation shall be made as aforesaid, it shall be the duty of the several courts of the United States, and of each state, having criminal jurisdiction, and of the several judges and justices of the courts of the United States, and they shall be, and are hereby respectively, authorized upon complaint, against any alien or alien enemies, as aforesaid, who shall be resident and at large within such jurisdiction or district, to the danger of the public peace or safety, and contrary to the tenor or intent of such proclamation, or other regulations which the President of the United States shall and may establish in the premises, to cause such alien or aliens to be duly apprehended and conveyed before such court, judge or justice; and after a full examination and hearing on such complaint, and sufficient cause therefor appearing, shall and may order such alien or aliens to be removed out of the territory of the United States, or to give sureties of their good behaviour, or to be otherwise restrained, conformably to the proclamation or regulations which shall or may be established as aforesaid, and may imprison, or otherwise secure such alien or aliens, until the order which shall and may be made, as aforesaid, shall be performed.

SEC. 3. *And be it further enacted,* That it shall be the duty of the marshal of the district in which any alien enemy shall be apprehended, who by the President of the United States, or by order of any court, judge or justice, as aforesaid, shall be required to depart, and to be removed, as aforesaid, to provide therefor, and to execute such order, by himself or his deputy, or other discreet person or persons to be employed by him, by causing a removal of such alien out of the territory of the United States; and for such removal the marshal shall have the warrant of the President of the United States, or of the court, judge or justice ordering the same, as the case may be.

IV.—THE SEDITION LAW, JULY 14, 1798.

An Act in addition to the act, entitled "An Act for the punishment of certain crimes against the United States."

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That if any persons shall unlawfully combine or conspire together, with intent to oppose any measure or measures of the government of the United States, which are or shall be directed by proper authority, or to impede the operation of any law of the United States, or to intimidate or prevent any person holding a place or office in or under the government of the United States, from undertaking, performing or executing his trust or duty; and if any person or persons, with intent as aforesaid, shall counsel, advise or attempt to procure any insurrection, riot, unlawful assembly, or combination, whether such conspiracy, threatening, counsel, advice, or attempt shall have the proposed effect or not, he or they shall be deemed guilty of a high misdemeanor, and on conviction, before any court of the United States having jurisdiction thereof, shall be punished by a fine not exceeding five thousand dollars, and by imprisonment during a term not less than six months nor exceeding five years; and further, at the discretion of the court may be holden to find sureties for his good behaviour in such sum, and for such time, as the said court may direct.

SEC. 2. *And be it further enacted,* That if any person shall write, print, utter or publish, or shall cause or procure to be written, printed, uttered or published, or shall knowingly and willingly assist or aid in writing, printing, uttering or publishing any false, scandalous and malicious writing or writings against the government of the United States, or either house of the Con-

gress of the United States, or the President of the United States, with intent to defame the said government, or either house of the said Congress, or the said President, or to bring them, or either of them, into contempt or disrepute; or to excite against them, or either or any of them, the hatred of the good people of the United States, or to stir up sedition within the United States, or to excite any unlawful combinations therein, for opposing or resisting any law of the United States, or any act of the President of the United States, done in pursuance of any such law, or of the powers in him vested by the constitution of the United States, or to resist, oppose, or defeat any such law or act, or to aid, encourage or abet any hostile designs of any foreign nation against the United States, their people or government, then such person, being thereof convicted before any court of the United States having jurisdiction thereof, shall be punished by a fine not exceeding two thousand dollars, and by imprisonment not exceeding two years.

SEC. 3. *And be it further enacted and declared,* That if any person shall be prosecuted under this act, for the writing or publishing any libel aforesaid, it shall be lawful for the defendant, upon the trial of the cause, to give in evidence in his defence, the truth of the matter contained in the publication charged as a libel. And the jury who shall try the cause, shall have a right to determine the law and the fact, under the direction of the court, as in other cases.

SEC. 4. *And be it further enacted,* That this act shall continue and be in force until the third day of March, one thousand eight hundred and one, and no longer: *Provided,* that the expiration of the act shall not prevent or defeat a prosecution and punishment of any offence against the law, during the time it shall be in force.

CHAPTER XV.

1798-1800.

THE KENTUCKY AND VIRGINIA RESOLUTIONS.

Despair of the Republicans — The Kentucky Resolutions — John Quincy Adams' opinion — The Virginia Resolutions — Their important paragraph — Madison's interpretation — The chief propositions in the Kentucky Resolutions — Jefferson's meaning — His letter to Tracy — Differing doctrines of Jefferson and Madison — Madison's denunciation of nullification and secession — Views of the various State legislatures — Iredell's opinion — The Kentucky Resolutions of 1799 — The Virginia Resolution of 1800 — The doctrines becoming a political issue. Appendix to Chapter XV.— I. The Kentucky Resolutions; II. The Virginia Resolutions; III. Madison's letter on Nullification.

In 1798 the Republicans were in the depths of gloom and despair. A standing army had been created, and, much to their disgust, the despised Hamilton was in a position to control it. Four laws had been enacted — the Alien and Sedition Laws — which they did not believe had constitutional sanction but which, nevertheless, gave to the government great power over the actions of individuals. They saw the Federalists drunk with power and ready to extend it still further. They saw the people wrought up over the dispute with France and ready to entrust the war party with whatever power it might ask, without considering how such power might be abused.*

This state of affairs alarmed the Republicans, who thought their worst fears were about to be realized, and some of them even considered the dissolution of the Union. As already stated, John Taylor, of Carolina,

wrote in this vein to Jefferson, suggesting that Virginia and North Carolina withdraw from the Union and form a separate government on Republican principles. Jefferson, however, thought quite the reverse, and on June 1, 1798, wrote to Taylor as follows:

" * * * It is true that we are completely under the saddle of Massachusetts and Connecticut, and that they ride us very hard, cruelly insulting our feelings, as well as exhausting our strength and subsistence. Their natural friends, the three other eastern States, join them from a sort of family pride, and they have the art to divide certain other parts of the Union, so as to make use of them to govern the whole. This is not new, it is the old practice of despots; to use a part of the people to keep the rest in order. * * * Be this as it may, in every free and deliberating society, there must from the nature of man, be opposite parties, and violent dissensions and discords; and one of these, for the most part must prevail over the other for a longer or shorter time. Perhaps this party division is necessary to induce each to watch and relate to the people the proceedings of the other. But if on a temporary superiority of one party, the other is to resort to a scission of the Union, no Federal Government can ever exist. If to rid ourselves of the present rule of Massachusetts and Connecticut, we break the Union, will the evil stop there? Suppose the New England States

* Bassett, *The Federalist System*, p. 265.

alone cut off, will our nature be changed? Are we not men still to the south of that, and with all the passions of men? Immediately, we shall see a Pennsylvania and a Virginia party arise in the residuary confederacy and the public mind will be distracted with the same party spirit. What a game, too, will the one party have in their hands, by eternally threatening the other that unless they do so and so, they will join their northern neighbors. If we reduce our Union to Virginia and North Carolina, immediately the conflict will be established between the representatives of these two States, and they will end by breaking into their simple units. Seeing, therefore, that an association of men who will not quarrel with one another is a thing which never yet existed, from the greatest confederacy of nations down to a town meeting or a vestry; seeing that we must have somebody to quarrel with, I had rather keep our New England associates for that purpose than to see our bickerings transferred to others. * * * But who can say what would be the evils of a scission, and when and where they would end? Better keep together as we are, haul off from Europe as soon as we can, and from all attachments to any portions of it: and if they show their power just sufficiently to hoop us together, it will be the happiest situation in which we can exist. * * *

Jefferson was willing, however, that the States should *protest* against the tendency of the Federalists, thinking that the evils might be remedied if attention were called to them with sufficient force. There was no longer time to stop at the exchange of private opinions, and the declarations of individuals. The time had come when an authentic statement of party principles should be distinctly formulated and officially proclaimed and recognized. If this were not done, there was danger of being so far carried away by the tide of events as to lose sight of all principles — perhaps

forever. On the other hand, should this be done, the course of events might be calmly awaited and the policy of expediency could again be followed. Once the protest was recorded and was not officially recalled or withdrawn, it would be part of the record, and this could be taken advantage of at any time.* Both Jefferson and Madison considered the Alien and Sedition Laws violations of the Constitution, and were determined to bring to bear upon the issue the power and influence of the State Legislatures. Jefferson declared that he considered the Alien and Sedition Laws “an experiment on the American mind to see how far it will bear an avowed violation of the Constitution. If this goes down, we shall immediately see attempted another act of Congress declaring that the President shall continue in office during life, reserving to another occasion the transfer of the succession to his heirs and the establishing of the Senate for life.”†

In the autumn of 1798, therefore, after consulting his friends,‡ Jefferson decided to introduce such resolutions into the Legislatures of

* Von Holst, *Constitutional and Political History*, vol. i., p. 144.

† Ford's ed. of *Jefferson's Writings*, vol. vii., p. 283.

‡ Jefferson says that the conference took place between him and the two Nicholas brothers, adding: “I think Mr. Madison was either with us or consulted, but my memory is uncertain as to minute details.”—*Jefferson's Works*, vol. vii., p. 230; J. C. Hamilton, *History of the Republic*, vol. vii., p. 264.

* Ford's ed of *Jefferson's Writings*, vol. vii., pp. 263-265.

Virginia and North Carolina, but changed his plan after the election of that fall, because "the late changes in their representation [that of North Carolina] may indicate some doubt whether they could have passed," and he considered it better that "they should come from Kentucky."* Accordingly, he drafted a set of resolutions† which were introduced by John Breckenridge‡ in the Kentucky Legis-

lature and on November 10 adopted, with scarcely a dissenting vote.*

John Quincy Adams draws attention to the "keen, constant, and profound faculty of observation" possessed by Jefferson "with regard to the action and reaction of popular opinion upon the measures of government," and, after speaking of the

United States (Fredericksburg, 1814, p. 174), where they are credited to Jefferson. See also Warfield's article in *Magazine of Western History* (April, 1886).

* See his letter to Wilson C. Nicholas, in Ford's ed. of *Jefferson's Writings*, vol. vii., p. 282.

† Jefferson himself subsequently admitted his authorship of these resolutions. Writing to the son of W. C. Nicholas, December 11, 1821, he said: "At the time when the Republicans of our country were so much alarmed at the proceedings of the Federal ascendancy in Congress, * * * they concluded to retire from that field, take a stand in the state legislatures, and endeavor there to arrest their progress. * * * Your father, Colonel W. C. Nicholas, and myself happening to be together, the engaging the co-operation of Kentucky in an energetic protestation against the constitutionality of those laws became a subject of consultation. Those gentlemen pressed me strongly to sketch resolutions for that purpose, your father undertaking to introduce them to that legislature, with a solemn assurance, which I strictly required, that it should not be known from what quarter they came. I drew and delivered them to him, and in keeping their origin secret he fulfilled his pledge of honor. Some years after this, Colonel Nicholas asked me if I would have any objection to its being known that I had drawn them. I pointedly enjoined that it should not. Whether he had unguardedly intimated it before to any one I know not; but I afterwards observed in the papers repeated imputations of them to me, on which, as has been my practice on all occasion of imputation, I have observed entire silence."—Ford's ed. of *Jefferson's Writings*, vol. vii. pp. 290-291, note.

‡ Warfield, in his *The Kentucky Resolutions of 1798; an Historical Study* (New York, 1887, chap. vi.), contends that Breckenridge's authorship of the resolutions was not questioned until John Taylor published his *Inquiries into the Principles and Policy of the Government of the*

* Text of the various drafts in Ford's ed. of *Jefferson's Writings*, vol. vii., pp. 289-309 and insert. See also Shaler, *History of Kentucky*, App. A., pp. 409-416; MacDonald, *Select Documents*, pp. 149-155; Houghton, *American Politics*, p. 150 *et seq.* See also Appendix I. at the end of the present chapter. "Much misrepresentation and misconception of these resolutions have existed in the general charge and belief that they favored the doctrine of nullification or implied a purpose of resistance to Federal authority. A just view will ascribe to them but a purpose to enter a solemn protest against the exercise of the power sought to be conferred upon the Federal executive, and the use of moral rather than revolutionary means to effect a remedy. That this was done is sufficiently attested by history. The Federal party had administered the government for twelve years under a loose construction of the constitution during the last presidential term, and the introduction of these resolutions proved to be the basis of the organization of the Democratic party, the election of Jefferson and all succeeding presidents, except three, for sixty years."—Josiah S. Johnston, in *The South in the Building of the Nation*, vol. i., pp. 271-272. See also Shaler, p. 141 *et seq.*; Warfield, *The Kentucky Resolutions of 1798*, p. 150 *et seq.*; the review and the correspondence in the *Nation*, vol. xlv., p. 528 and xlv., pp. 328-384, 467, 468; R. T. Durrett, in *Southern Bivouac*, vol. i., pp. 577, 658, 760; Frank M. Anderson, *Contemporary Opinion of the Virginia and Kentucky Resolutions*, in *American Historical Review*, vol. v., pp. 45-63, 225-252 (1899-1900); E. P. Powell, *Nullification and Secession in the United States* (1897); C. W. Loring, *Nullification, Secession, Webster's Argument and the Kentucky and Virginia Resolutions* (1893).

sagacious manner in which Jefferson used the present opportunity to further his personal advancement, he clearly indicates wherein Jefferson went beyond Madison in advocating the doctrine of nullification.* Adams continues:

"Assuming as first principles, that by the Constitution of the United States Congress possessed no authority to restrain in any manner the freedom of the press, not even in self-defence against the most incendiary defamation, and that the principles of the English Common Law were of no force under the Government of the United States he drafted, with his own hand, resolutions which were adopted by the Legislature of Kentucky, declaring that each State had the right to judge for itself as well of infractions of the common Constitution, by the general government, as of the modes and measures of redress that the alien and sedition laws were, in their opinion, manifest and palpable violations of the Constitution, and therefore null and void and that a nullification by the State Sovereignities of all unauthorized acts done under color of the Constitution, is the rightful remedy for such infractions.

"The principles thus assumed, and particularly that of remedial nullification by state authority, have been more than once re-asserted by parties predominating in one or more of the confederated States, dissatisfied with particular acts of the general government. They have twice brought the Union itself to the verge of dissolution. To that result it must come, should it ever be the misfortune of the American People that these principles should obtain the support of a sufficient portion of them to make them effective by force. They never have yet been so supported. The alien and sedition acts were temporary Statutes, and expired by their own limitations. No attempt has been made to revive them, but in our most recent times, restrictions far more vigorous upon the freedom of the press, of speech, and of personal liberty, than the alien and sedition laws, have not only been deemed within the constitutional power of Congress, but even recommended by the Chief Magistrate of the Union, to encounter the dangers and evils of incendiary publications."

Later in the same year Madison drafted a series of resolutions which were introduced in the Virginia Legislature by John Taylor on December 13, 1798. They were debated until the 21st and passed on the 24th in the House by a vote of 100 to 63, and in the Senate by a vote of 14 to 3.* In speaking of this and of the influence which Jefferson exerted over Madison, Adams says:

"Mr. Madison, at the earnest solicitation of Mr. Jefferson, introduced into the legislature of Virginia the resolutions adopted on the 21st of December, 1798, declaring, 1. That the Constitution of the United States was a compact, to which the States were parties, granting limited powers of Government. 2. That in case of a deliberate, palpable, and dangerous exercise of other powers, not granted by the compact, the States had the right, and were in duty bound to *interpose*, for arresting the progress of the evils and for maintaining within their respective limits the authorities, rights, and liberties appertaining to them. 3. That the alien and sedition acts were palpable and alarming infractions of the Constitution. 4. That the State of Virginia, having by its convention which ratified the federal Constitution, expressly declared that among other essential rights the liberty of conscience and of the press cannot be cancelled, abridged, restrained, or modified by any authority of the United States, and from its extreme anxiety to guard these rights from every possible attack of sophistry and ambition, having with the other States recommended an amendment for that purpose, which amendment was in due time annexed to the Constitution, it would mark a reproachful inconsistency and criminal degeneracy if an indifference were now shown to the most palpable violation of one of the rights thus declared and secured, and to the establishment of a precedent which might be fatal to the others. 5. That the

* McMaster, vol. ii., p. 422; Hunt, *Life of Madison*, p. 252 *et seq.* The text will be found in Madison's *Works* (Congress ed.), vol. iv., pp. 506-507; MacDonald, *Select Documents*, pp. 155-157; Cooper and Fenton, *American Politics*, book ii.; Houghton, *American Politics*, p. 136. See also Appendix II. at the end of the present chapter.

* *Lives of Madison and Monroe*, p. 65 *et seq.*

State of Virginia declared the alien and sedition laws UNCONSTITUTIONAL — solemnly appealed to the like dispositions in the other States, in confidence that they would concur with her in that declaration, and that the necessary and proper measures would be taken by each for *co-operating* with her, in maintaining unimpaired the authorities, rights, and liberties reserved to the States respectively, or to the People. 6. That the Governor should be desired to transmit a copy of these resolutions to the Executive authority of each of the other States, with a request that they should be communicated to the respective State Legislatures, and that a copy should be furnished to each of the Senators and Representatives of Virginia in Congress.” *

The most important paragraph of the Virginia resolutions is the third, which reads as follows:

“That this Assembly doth explicitly and peremptorily declare that it views the powers of the Federal Government as resulting from the compact to which the States are parties, as limited by the plain sense and intention of the instrument constituting that compact; as no further valid than they are authorized by the grants enumerated in that compact; and that, in case of a deliberate, palpable, and dangerous exercise of other powers not granted by the said compact, the States, who are parties thereto, have the right and are in duty bound to *interpose* for arresting the progress of the evil, and for maintaining within their respective limits the authorities, rights, and liberties appertaining to them.”

The most significant word in the paragraph is the word “interpose.” The question is, Did Madison mean that each individual State had the right to interpose in the sense that, as a sovereign power, it could declare every law which it deemed an infraction of the Constitution null and void within its boundaries? Madison himself, writing in 1831, has emphatically told us that this was not his mean-

ing. At that time the question of nullification was under discussion, and Calhoun attempted to show that it was taught by the Virginia and Kentucky resolutions. Madison stated that it was not; that Virginia had never maintained that a single State has the constitutional right forcibly to prevent the execution of national laws within its limits. Virginia had contended for such interposition only as was permitted by the Constitution, which document provided for the calling of a convention either by Congress or by two-thirds of the States. The decision of such a convention, if ratified by the legislatures of three-fourths of the States, would have been final as to the constitutionality of the Alien and Sedition Laws, and this was what, according to Madison, the word *interpose* meant in the Virginia Resolution.* Again, there is nothing in the resolutions inconsistent with Madison’s interpretation of them. The right “to interpose” is claimed for *the States* — the singular term not being used. The resolutions did state, to be sure, that the Constitution was a compact between separate and sovereign States; but if this were true, the Constitution would simply be a sort of treaty which any State might renounce if violated by any other State. Yet, though the right of secession could be based on such a view

* Madison’s *Works* (Congress ed.), vol. iv., pp. 204-242. See also Curtis, in Winsor, *Narrative and Critical History*, vol. vii., p. 252, and Johnston, in *ibid*, vol. vii., p. 270.

* *Lives of Madison and Monroe*, pp. 67-69.

of the Constitution, the right of nullification could not; for it was one thing to set aside a treaty under certain circumstances, but a far different thing to say that a State had a right, while professing to be bound by that treaty, to oppose the authority which it created.*

The Kentucky resolutions contained three separate and distinct propositions. First, that, since the Constitution was merely a compact (to which each State acceded as a State, and as an integral party, its co-states forming, as to itself, the other party), each State has an equal power to judge for itself of infractions as well as of the mode of redress, and that the government created by this compact was not merely an exclusive or final judge of the extent of the powers delegated to it, since that would have made this discretion, and not the Constitution, the measure of its powers. Secondly, that the Alien and Sedition Laws violated the Constitution in several respects, are altogether void and of no force, and that the power to create, define and punish such other crimes is reserved, and a right pertaining solely and exclusively to the respective States, each within its own territory. Thirdly, that, whenever the national government should pass a law (the power to pass which it did not possess under the Constitution), the States, acting individually, could properly nullify such a law within their boundaries.

There is no chance of mistaking the meaning of the first proposition of the Kentucky resolutions. Equally clear is the manner in which some of the other more important clauses of these resolutions were reached. Jefferson believed that each State had an equal right with the national government to determine when the Constitution had been violated, as well as the mode of redress in such cases. He based his belief not upon a study of the Constitution, but on a consideration of the corollaries following from the view that the decision of the general government as to the extent of its own powers was final — which “would have made its discretion, and not the Constitution, the measure of its powers.” Regarding the third proposition, the Kentucky resolutions stated that “this commonwealth is determined, as it doubts not its co-states are, tamely to submit to undelegated and, consequently, unlimited powers in no man or body of men on earth,” and that, in cases of abuse of the delegated powers (the members of the government being chosen by the people), a change by the people is to be a Constitutional remedy; but that where Congress had assumed powers which it did not have under the Constitution, a nullification of the act was the rightful remedy; and, finally, that every State had a natural right of its own authority, in cases not within the compact, to nullify all assumption of powers by others within its limits. It is perfectly plain that Jefferson

* Gordy, *Political History*, vol. i., pp. 331-335.

meant that, as the Constitution was a compact between each State and the other States, each State had a right to judge when the Constitution was being violated and what sort of redress was necessary to remedy that violation, and that where the Constitution had been violated in various ways, nullification by individual States was the rightful remedy. Undoubtedly Jefferson read the Kentucky resolutions at a time when he believed liberty was in its last stronghold. He feared that the Federalists were bent on carrying out a program which, unless nipped in the bud, might drive the States to bloody rebellion. But it is unfair to Jefferson to say that the drift of these resolutions represented his sober thought as to the proper remedy for Constitutional violations. Madison was not ready to go quite as far as Jefferson, and at a later period in his life, as already stated, explicitly repudiated the doctrines of those who believed that the State had a right to nullify the acts of the general government.*

In justice to Jefferson's views, we give a letter written in 1811, a few years before his death, to Count Destutt Tracy.† In this letter, he says:

"The true barriers of our liberty are our state governments; and the wisest conservative power ever contrived by man is that of which our Revolution and present government found us possessed. Seventeen distinct states, amalgamated into one as to their foreign concerns, but single and independent as to their internal administration, regularly organized with a legislature and a governor, resting on the choice of the people, and enlightened by a free press, can never be so fascinated by the arts of one man, as to submit voluntarily to his usurpation. Nor can they be constrained to it by any force he can possess. While that may paralyse the single state in which it happens to be encamped, sixteen others, spread over a country of two thousand miles in diameter, rise up on every side, ready organized for deliveration by a constitutional legislature, and for action, by their governor, constitutionally the commander of the militia of the state,—that is to say, of any man in it able to bear arms; and that militia, too, regularly formed into regiments and battalions, into infantry, cavalry, and artillery, trained under officers, general and subordinate, legally appointed, always in readiness, and to whom they are already in habits of obedience. The republican government of France was lost without a struggle, because the party of '*un et indivisible*' had prevailed: no provincial organizations existed to which the people might rally under authority of the laws, the seats of the Directory were virtually vacant, and a small force sufficed to turn the legislature out of their chamber, and to salute its leader chief of the nation. But with us, sixteen out of the seventeen states rising in mass, under regular organization, and legal commanders, united in object and action by their Congress, or, if that be in *duress*, by a special convention,—present such obstacles to a usurper, as forever to stifle ambition in the first conception of that object.

"Dangers of another kind might more reasonably be apprehended from this perfect and distinct organization, civil and military, of the states:—to wit, that certain states, from local and occasional discontents, might attempt to secede from the Union. This is certainly possible, and would be befriended by this regular organization. But it is not probable that local discontents can spread to such an extent as to be able to face the sound parts of so extensive a Union: and if ever they should reach the majority, they would then become the regular government, acquire the ascendancy in Congress, and be able to redress their own grievances by laws peaceably and constitutionally passed. And even the

* Adams, *Lives of Madison and Monroe*, p. 75. For Mr. Madison's letter to the Hon. Edward Everett on the subject of nullification and on the proceedings of the Virginia legislature, see Appendix III. at the end of the present chapter. For his views on nullification in general, see Hunt, *Life of Madison*, p. 261 *et seq.*

† Tucker, *Life of Jefferson*, vol. ii., pp. 322-324.

states in which local discontents might engender a commencement of fermentation, would be paralysed and self-checked by that very division into parties into which we have fallen, into which all states must fall, wherein men are at liberty to think, speak, and act freely, according to the diversities of their individual conformations; and which are, perhaps, essential to preserve the purity of the government by the censorship which these parties habitually exercise over each other." *

The two sets of resolutions were as different as the men who wrote them. Jefferson believed in the compact theory of the Union and followed it to its logical conclusion. He would arrest the tendency of Federalism, even if he had to go to the length of State nullification. One of the clauses in his draft, which was omitted in the Resolutions as finally adopted, states "that every State has a natural right in cases not within the compact to nullify of their own authority, all assumptions of power by others within their limits, that without this right they would be under the dominion, absolute and unlimited, of whosoever might exercise this right of judgment for them." † Jefferson was an opportunist and was intent on the present. He was prepared to claim much and take what he could get, for, said he, in a letter to Madison, November 17, 1798, "I think we should distinctly affirm all the important principles they contain, so as to hold to that ground in the future, and leave the matter in such a train as that we

may not be committed absolutely to push the matter to extremities, & yet may be free to push as far as events will render prudent." *

Madison, not prepared, as we have already pointed out, to go as far as Jefferson, drew his resolutions in a more judicial spirit. Where Jefferson said that the States themselves should judge of infractions of the compact, Madison said that they might "interpose" to obtain redress, without stating, however, what form such interposition should take. This was more temperate and better suited for campaign purposes in Virginia than the more extreme doctrines of Jefferson. In the letters written in 1831, Madison said that these resolutions were put forth for political effect, and not as an exposition of Constitutional doctrine. † He denounced nullification and secession as "twin heresies" that "ought to be buried in the same grave." "A political system," he says, "which does not contain an effective provision for a peaceable decision of all controversies arising within itself, would be a government in name only." The "essential difference between a free government and governments not free is that the former is founded in compact, the parties to which are mutually and equally bound by it. Neither of them,

* Ford's ed. of *Jefferson's Writings*, vol. vii., p. 288.

† See his letters to James Robertson, March 27, 1831, *Madison's Works* (Congress ed.), vol. iv., p. 166, and to N. P. Trist, December, 1831, *ibid.*, p. 204 *et seq.*

* See Ford's ed. of *Jefferson's Writings*, vol. ix., pp. 305-310.

† *Ibid.*, vol. vii., p. 301.

therefore, can have a greater right to break off the bargain, than the other or others have to hold them to it. * * * It is high time that the claim to secede at will should be put down by the public opinion." Again he says to another friend:

"What can be more preposterous than to say that the States, as united, are in no respect or degree a nation, which implies sovereignty; * * * and on the other hand, and at the same time, to say that the States separately are completely nations and sovereigns? * * * The words of the Constitution are explicit, that the Constitution and laws of the United States shall be supreme over the Constitution and laws of the several States; supreme in their exposition and execution, as well as in their authority. Without a supremacy in these respects, it would be like a scabbard in the hand of a soldier, without a sword in it."*

In accordance with the instructions contained in the Kentucky and Virginia Resolutions, the governors of those states sent copies of the resolutions to the executives of the several States for submission to their legislatures, and in the course of the next year replies were received.† No State south of the Hudson, save Delaware, said anything about the political doctrines contained in the resolutions, but the five New England States, together with New York and Delaware, vigorously dissented. In the North the Federalists controlled

the legislatures, and naturally all these defended the Alien and Sedition Laws as proper and legal, at the same time declaring the Federal courts to be the legal interpreters of the Constitution. Only one State—Vermont—denounced the compact theory of the Union,* which, according to Bassett, would seem to indicate that this theory was so generally accepted by the people that those who drafted the replies were not willing to commit themselves as being antagonistic to it. The Southern States made no replies. Federalists had made considerable gains in Georgia and the Carolinas in 1798, and it was deemed inadvisable to stir up strife on such a question as the resolutions.

The replies of the States cannot be regarded, however, as a fair indication of the sentiments of the people. In dissenting from the resolutions, the Northern States did not object to the doctrine of State sovereignty, but only to the arraignment of the Alien and Sedition Laws. Such Federalists as Hamilton, Adams, and Jay undoubtedly regarded the general government as the representative of the one sovereign American people. But to such Federalists as Pickering, George Morris, Harrison Gray Otis and George Cabot, the Federal government was the agent of the States, and that this government had the power to impose its edicts on unwilling States was a political solecism to

* Gay, *Life of Madison*, pp. 246-247.

† The replies of the States will be found in Elliot, *Debates*, vol. iv., pp. 558-565 (ed. 1836). Madison drew a report from the answers of the States (*Proceedings of the Virginia Assembly on the Answers of the Sundry States to their Resolutions*), which was printed in the *Report on the Proceedings of the Other States on the Virginia Resolutions of 1798* (Richmond, 1819).

* Bassett, *Federalist System*, p. 270.

which they could not give their assent. The league into which they had entered was a league of independent States. The Congress of the Confederation had been created to promote the interests of independent States, and when the Constitution had been adopted this independence had not been relinquished. It had been adopted merely to carry out effectively the purposes of the original confederation.* In dissenting from a decision that a State could be sued, James Iredell, one of the judges of the Supreme Court, said:

"Every State in the Union, in every instance where its sovereignty has not been delegated to the United States, is considered to be as completely sovereign as the United States are in respect to the powers surrendered; the United States are sovereign as to all the powers of government actually surrendered; each state in the Union is sovereign as to all the powers reserved."†

Virginia and Kentucky, therefore, considered it necessary and prudent to explain their position, and toward the close of 1799 drew up new sets of resolutions. On November 14, 1799, the Kentucky Legislature took under consideration the answers received from the legislatures of the other States. The committee to whom the matter was referred made a report which was unanimously agreed to by the House on the same day and by the Senate on November 22.‡ The report was as follows:

"The Representatives of the good people of this commonwealth, in general assembly convened, having maturely considered the answers of sundry states in the Union, to their resolutions passed at the last session, respecting certain unconstitutional laws of Congress, commonly called the alien and sedition laws, would be faithless indeed to themselves, and to those they represent, were they silently to acquiesce in the principles and doctrines attempted to be maintained in all those answers, that of Virginia only excepted. To again enter the field of argument, and attempt more fully or forcibly to expose the unconstitutionality of those obnoxious laws, would, it is apprehended, be as unnecessary as unavailing. We cannot, however, but lament that in the discussion of those interesting subjects, by sundry of the legislatures of our sister states, unfounded suggestions, and uncandid insinuations, derogatory of the true character and principles of the good people of this commonwealth, have been substituted in place of fair reasoning and sound argument. Our opinions of these alarming measures of the general government, together with our reasons for those opinions, were detailed with decency and with temper, and submitted to the discussion and judgment of our fellow-citizens throughout the Union. Whether the like decency and temper have been observed in the answers of most of those states who have denied or attempted to obviate the great truths contained in those resolutions, we have now only to submit to a candid world. Faithful to the true principles of the Federal Union, unconscious of any designs to disturb the harmony of that Union, and anxious only to escape the fangs of despotism, the good people of this commonwealth are regardless of censure or calumny. Lest, however, the silence of this commonwealth should be construed into an acquiescence in the doctrines and principles advanced and attempted to be maintained by the said answers, or lest those of our fellow-citizens throughout the Union, who so widely differ from us on those important subjects, should be deluded by the expectation that we shall be deterred from what we conceive our duty, or shrink from the principles contained in those resolutions; therefore,

"*Resolved*, That this commonwealth considers the Federal Union, upon the terms and for the purposes specified in the late compact, as conducive to the liberty and happiness of the several states; That it does now unequivocally declare its attachment to the Union, and to that compact, agreeable to its obvious and real intention, and will be among the last to seek its

* Gordy, *Political History*, vol. i., pp. 340-341.

† Dallas, *Supreme Court Reports*, vol. ii., p. 419.

‡ See Elliot, *Debates*, vol. iv., pp. 570-572; MacDonald, *Select Documents*, pp. 158-160; Warfield, *Kentucky Resolutions*, chap. v.

dissolution: That if those who administer the general government be permitted to transgress the limits fixed by that compact, by a total disregard to the special delegations of power therein contained, an annihilation of the state governments, and the erection upon their ruins of a general consolidated government, will be the inevitable consequence: That the principle and construction contended for by sundry of the state legislatures, that the general government is the exclusive judge of the extent of the powers delegated to it, stop nothing short of despotism, since the *discretion* of those who administer the government, and not the *Constitution*, would be the measure of their powers: That the several states who formed that instrument, being sovereign and independent, have the unquestionable right to judge of its infraction, and *that a nullification by those sovereignties, of all unauthorized acts done under color of that instrument, is the rightful remedy*: That this commonwealth does, upon the most deliberate reconsideration, declare, that the said alien and sedition laws are, in their opinion, palpable violations of the said Constitution; and, however cheerfully it may be disposed to surrender its opinion to a majority of its sister states in matters of ordinary or doubtful policy, yet, in momentous regulations like the present, which so vitally wound the best rights of the citizen, it would consider a silent acquiescence as highly criminal: That although this commonwealth, as a party to the federal compact, will bow to the laws of the Union, yet it does at the same time declare, that it will not now, nor ever hereafter, cease to oppose in a constitutional manner, every attempt, from what quarter soever offered, to violate that compact. And, finally, in order that no pretexts or arguments may be drawn from a supposed acquiescence on the part of this commonwealth in the constitutionality of those laws, and be thereby used as precedents for similar future violations of the federal compact, this commonwealth does now enter against them its SOLEMN PROTEST."

When the matter was taken under consideration in the Virginia Legislature, Madison prepared a long and elaborate report.* The preamble was an exhaustive defence of the compact

theory of the Constitution. The concluding resolution, together with the report, was adopted in February, 1800, the resolution reading as follows:

"*Resolved*, That the General Assembly, having carefully and respectfully attended to the proceedings of a number of the states, in answer to their resolutions of December 21, 1798, and having accurately and fully re-examined and reconsidered the latter, find it to be their indispensable duty, to adhere to the same, as founded in truth, as consonant with the Constitution, and as conducive to its preservation; and more especially to be their duty to renew, as they do hereby renew, their protest against 'the alien and sedition acts,' as palpable and alarming infractions of the Constitution."

At last the Republicans had a political issue upon which they could meet the Federalists fairly and squarely. The Alien and Sedition Laws, together with the Kentucky and Virginia Resolutions, were not concerned with foreign entanglements, but with domestic affairs; and by discussing the issue in so many of the State legislatures, it had been most vividly brought to the attention of the people. Newspapers spread the arguments, the subject was discussed at public meetings, and everywhere addresses were made and issued, so that the subject became the most intense purely political appeal the country had witnessed up to that time. These resolutions were the forerunners of the nullification movement in South Carolina in and after 1828 and an important step in the development of the secession movement which culminated in war between the States in 1861.

* Madison's *Works* (Congress ed.), vol. i., pp. 151-152; vol. iv., pp. 515-555; Elliot, *Debates*, vol. iv., pp. 532-580 (ed. 1830).

APPENDIX TO CHAPTER XV.

I. THE KENTUCKY RESOLUTIONS OF 1798.

KENTUCKY LEGISLATURE.

In the House of Representatives November 10, 1798.

"The House, according to the standing order of the day, resolved itself into a Committee of the Whole on the state of the Commonwealth, Mr. Caldwell in the chair. And after some time spent therein the Speaker resumed the chair, and Mr. Caldwell reported that the Committee had, according to order, had under consideration the Governor's Address, and had come to the following Resolutions thereupon, which he delivered at the Clerk's table, where they were twice read and agreed to by the House.

I. *Resolved*, that the several states composing the United States of America, are not united on the principle of unlimited submission to their general government; but that by compact under the style and title of a Constitution for the United States and of amendments thereto, they constituted a general government for special purposes, delegated to that government certain definite powers, reserving each State to itself, the residuary mass of right to their own self-government; and that whensoever the general government assumes undelegated powers its acts are unauthorized, void, and of no force: That to this compact each State acceded as a State, and as an integral party, its co-States forming, as to itself, the other party: That the government created by this compact was not made the exclusive or final judge of the extent of the powers delegated to itself; since that would have made its discretion, and not the Constitution, the measure of its powers; but that as in all other cases of compact among parties having no common Judge, each party has an equal right to judge for itself, as well of infractions as of the mode and measure of redress.

II. *Resolved*, that the Constitution of the United States having delegated to Congress the power to punish treason, counterfeiting the securities and current coin of the United States, piracies and felonies committed on the high seas, and offences against the laws of nations, and no other crimes whatever, and it being true as a general principle, and one of the amendments to the Constitution having also declared, "that the powers not delegated to the United States by the Constitution, nor prohibited by it to the

States, are reserved to the States respectively, or to the people," therefore, also the same act of Congress passed on the 14th day of July, 1798, and entitled "An act in addition to the act entitled an act for the punishment of certain crimes against the United States"; as also the act passed by them on the 27th day of June, 1798, entitled "An act to punish frauds committed on the Bank of the United States" (and all other [of] their acts which assume to create, define, or punish crimes other than those enumerated in the Constitution), are altogether void, and of no force, and that the power to create, define, and punish such other crimes is reserved, and of right appertains solely and exclusively, to the respective States, each within its own Territory.

III. *Resolved*, that it is true as a general principle, as is also expressly declared by one of the amendments to the Constitution that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people"; and that no power over the freedom of religion, freedom of speech, or freedom of the press, being delegated to the United States by the Constitution, nor prohibited by it to the States, all lawful powers respecting the same, did of right remain, and were reserved to the States, or to the people: That thus was manifested their determination to retain to themselves the right of judging how far the licentiousness of speech and of the press may be abridged without lessening their useful freedom, and how far those abuses which cannot be separated from their use, should be tolerated rather than the use be destroyed; and thus also they guarded against all abridgement by the United States of the freedom of religious opinions and exercises, and retained to themselves the right of protecting the same, as this State, by a law passed on the general demand of its citizens, had already protected them from all human restraints or interference: And that in addition to this general principle and express declaration, another and more special provision has been made by one of the amendments to the Constitution which expressly declares, that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press," thereby

guarding in the same sentence, and under the same words, the freedom of religion, of speech, and of the press, insomuch, that whatever violates either, throws down the sanctuary which covers the others, and that libels, falsehoods, and defamation equally with heresy and false religion, are withheld from the cognizance of Federal tribunals: That therefore the act of the Congress of the United States, passed on the 14th day of July, 1798, entitled "An act in addition to the act for the punishment of certain crimes against the United States," which does abridge the freedom of the press, is not law, but is altogether void, and of no effect.

IV. *Resolved*, that alien friends are under the jurisdiction and protection of the laws of the State wherein they are; that no power over them has been delegated to the United States, nor prohibited to the individual States distinct from their power over citizens; and it being true as a general principle, and one of the amendments to the Constitution having also declared that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people," the act of the Congress of the United States, passed on the 22d day of June, 1798, entitled "An act concerning aliens," which assumes power over alien friends not delegated by the Constitution, is not law, but is altogether void and of no force.

V. *Resolved*, that in addition to the general principle as well as the express declaration, that powers not delegated are reserved, another and more special provision inserted in the Constitution from abundant caution has declared, "that the migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808." That this commonwealth does admit the migration of alien friends described as the subject of the said act concerning aliens; that a provision against prohibiting their migration is a provision against all acts equivalent thereto, or it would be nugatory; that to remove them when migrated is equivalent to a prohibition of their migration, and is therefore contrary to the said provision of the Constitution, and void.

VI. *Resolved*, that the imprisonment of a person under the protection of the laws of this Commonwealth on his failure to obey the simple order of the President to depart out of the United States, as is undertaken by the said act entitled "An act concerning aliens," is contrary to the Constitution, one amendment to which has pro-

vided, that "no person shall be deprived of liberty without due process of law," and that another having provided "that in all criminal prosecutions, the accused shall enjoy the right to a public trial by an impartial jury, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence," the same act undertaking to authorize the President to remove a person out of the United States who is under the protection of the law, on his own suspicion, without accusation, without jury, without public trial, without confrontation of the witnesses against him, without having witnesses in his favor, without defence, without counsel, is contrary to these provisions also of the Constitution, is therefore not law, but utterly void and of no force. That transferring the power of judging any person who is under the protection of the laws, from the courts to the President of the United States, as is undertaken by the same acts concerning aliens is against the article of the Constitution which provides, that "the judicial power of the United States: shall be vested in courts, the judges of which shall hold their offices during good behavior," and that the said act is void for that reason also; and it is further to be noted, that this transfer of judiciary power is to that magistrate of the general government who already possesses all the executive, and a qualified negative in all the legislative powers.

VII. *Resolved*, that the construction applied by the general government (as is evinced by sundry of their proceedings) to those parts of the Constitution of the United States which delegate to Congress a power to lay and collect taxes, duties, imposts, and excises; to pay the debts, and provide for the common defense, and general welfare of the United States, and to make all laws which shall be necessary and proper for carrying into execution the powers vested by the Constitution in the government of the United States, or any department thereof, goes to the destruction of all the limits prescribed to their power by the Constitution: That words meant by that instrument to be subsidiary only to the execution of the limited powers, ought not to be so construed as themselves to give unlimited powers, nor a part so to be taken as to destroy the whole residue of the instrument: That the proceedings of the general government under color of these articles will be a fit and necessary subject for revision and correction at a time of greater tranquillity, while those

specified in the preceding resolutions call for immediate redress.

VIII. *Resolved*, that the preceding Resolutions be transmitted to the Senators and Representatives in Congress from this commonwealth, who are hereby enjoined to present the same to their respective Houses, and to use their best endeavors to procure, at the next session of Congress, a repeal of the aforesaid unconstitutional and obnoxious acts.

IX. *Resolved, lastly*, that the governor of this Commonwealth be, and is hereby authorized and requested to communicate the preceding Resolutions to the Legislatures of the several States, to assure them that this Commonwealth considers union for specified National purposes, and particularly for those specified in their late Federal Compact, to be friendly to the peace, happiness, and prosperity of all the States: that faithful to that compact according to the plain intent and meaning in which it was understood and acceded to by the several parties, it is sincerely anxious for its preservation: that it does also believe, that to take from the States all the powers of selfgovernment, and transfer them to a general and consolidated government, without regard to the special delegations and reservations solemnly agreed to in that compact, is not for the peace, happiness, or prosperity of these States: And that, therefore, this Commonwealth is determined, as it doubts not its co-States are, tamely to submit to undelegated and, consequently, unlimited powers in no man or body of men on earth: that if the acts before specified should stand, these conclusions would flow from them; that the general government may place any act they think proper on the list of crimes and punish it themselves, whether enumerated or not enumerated by the Constitution as cognizable by them: that they may transfer its cognizance to the President or any other person, who may himself be the accuser, counsel, judge, and jury, whose suspicions may be the evidence, his order the sentence, his officer the executioner, and his breast the sole record of the transaction: that a very numerous and valuable description of the inhabitants of these States being by this precedent reduced as outlaws to the absolute dominion of one man, and the barrier of the Constitution thus swept away from us all, no rampart now remains against the passions and the powers of a majority of Congress, to protect from a like exportation or other more grievous punishment the minority of the same body, the legislature, judges, governors, and counselors of the States, nor their other peaceful inhabitants who may venture to reclaim the con-

stitutional rights and liberties of the State and people, or who for other causes, good or bad, may be obnoxious to the views or marked by the suspicions of the President, or be thought dangerous to his or their elections or other interests, public or personal: that the friendless alien has indeed been selected as the safest subject of a first experiment, but the citizen will soon follow, or rather has already followed; for, already has a sedition act marked him as its prey: that these and successive acts of the same character, unless arrested on the threshold, may tend to drive these States into revolution and blood, and will furnish new calumnies against Republican governments, and new pretexts for those who wish it to be believed, that man cannot be governed but by a rod of iron: that it would be a dangerous delusion were a confidence in the men of our choice to silence our fears for the safety of our rights: that confidence is everywhere the parent of despotism: free government is founded in jealousy and not in confidence; it is jealousy, not confidence, which prescribes limited Constitutions to bind down those whom we are obliged to trust with power: that our Constitution has accordingly fixed the limits to which and no further our confidence may go; and let the honest advocate of confidence read the alien and sedition acts, and say if the Constitution has not been wise in fixing limits to the government it created, and whether we should be wise in destroying those limits; let him say what the government is if it be not a tyranny, which the men of our choice have conferred on the President, and the President of our choice has assented to and accepted over the friendly strangers, to whom the mild spirit of our country and its law had pledged hospitality and protection: that the men of our choice have more respected the bare suspicions of the President than the solid rights of innocence, the claims of justification, the sacred force of truth, and the forms and substance of law and justice. In questions of power then let no more be heard of confidence in man, but bind him down from mischief by the claims of the Constitution. That this Commonwealth does therefore call on its co-States for an expression of their sentiments on the acts concerning aliens, and for the punishment of certain crimes hereinbefore specified, plainly declaring whether these acts are or are not authorized by the Federal Compact. And it doubts not that their sense will be so announced as to prove their attachment unaltered to limited government, whether general or particular, and that the rights and liberties of their co-States will be exposed to no dangers

by remaining embarked on a common bottom with their own: That they will concur with this Commonwealth in considering the said acts as so palpably against the Constitution as to amount to an undisguised declaration, that the compact is not meant to be the measure of the powers of the general government, but that it will proceed in the exercise over these States of all powers whatsoever: That they will view this as seizing the rights of the States, and consolidating them in the hands of the general government, with a power assumed to bind the States (not merely in cases made Federal) but in all cases whatsoever, by laws made, not with their consent, but by others against their consent: That this would be to surrender the form of government we have chosen, and to live under one deriving its powers from its own will, and not

from our authority: and that the co-States recurring to their natural right in cases not made federal, will concur in declaring these acts void and of no force, and will each unite with this Commonwealth in requesting their repeal at the next session of Congress.

EDMUND BULLOCK, S. H. R.

JOHN CAMPBELL, S. S. P. T.

Passed the House of Representatives November 10, 1798.

Attest: THOMAS TODD, C. H. R.

In Senate, November 13, 1798, unanimously concurred in.

Attest: B. THURSTON, *Clerk Senate.*

Approved November 16, 1798, by the Governor,
JAMES GARRARD, G. K.,
HARVEY TOULMIN,

Secretary of State.

II. THE VIRGINIA RESOLUTIONS, DECEMBER 24, 1798.

IN THE HOUSE OF DELEGATES,

Friday, December 21, 1798.

Resolved, That the General Assembly of Virginia doth unequivocally express a firm resolution to maintain and defend the Constitution of the United States, and the Constitution of this State, against every aggression either foreign or domestic; and that they will support the Government of the United States in all measures warranted by the former.

That this Assembly most solemnly declares a warm attachment to the Union of the States, to maintain which it pledges all its powers; and that, for this end, it is their duty to watch over and oppose every infraction of those principles which constitute the only basis of that Union, because a faithful observance of them can alone secure its existence and the public happiness.

That this Assembly doth explicitly and peremptorily declare that it views the powers of the Federal Government as resulting from the compact to which the States are parties, as limited by the plain sense and intention of the instrument constituting that compact; as no further valid than they are authorized by the grants enumerated in that compact; and that, in case of a deliberate, palpable, and dangerous exercise of other powers not granted by the said compact, the States, who are parties thereto, have the right and are in duty bound to interpose for arresting the progress of the evil, and for maintaining within their respective limits the authorities, rights and liberties appertaining to them.

That the General Assembly doth also express

its deep regret, that a spirit has in sundry instances been manifested by the Federal Government to enlarge its powers by forced constructions of the constitutional charter which defines them; and that indications have appeared of a design to expound certain general phrases (which, having been copied from the very limited grant of powers in the former Articles of Confederation, were the less liable to be misconstrued) so as to destroy the meaning and effect of the particular enumeration which necessarily explains and limits the general phrases; and so as to consolidate the States, by degrees, into one sovereignty, the obvious tendency and inevitable consequence of which would be to transform the present republican system of the United States into an absolute, or, at best, a mixed monarchy.

That the General Assembly doth particularly protest against the palpable and alarming infractions of the Constitution in the two late cases of the "Alien and Sedition Acts," passed at the last session of Congress; the first of which exercises a power nowhere delegated to the Federal Government, and which, by uniting legislative and judicial powers to those of [the] executive, subvert the general principles of free government, as well as the particular organization and positive provisions of the Federal Constitution: and the other of which acts exercises, in like manner, a power not delegated by the Constitution, but, on the contrary, expressly and positively forbidden by one of the amendments thereto,—a power which, more than any other, ought to produce universal alarm, because it is levelled against the right of freely examining public characters and

measures, and of free communication among the people thereon, which has ever been justly deemed the only effectual guardian of every other right.

That this State having by its Convention which ratified the Federal Constitution expressly declared that, among other essential rights, "the liberty of conscience and of the press cannot be cancelled, abridged, restrained, or modified by any authority of the United States," and from its extreme anxiety to guard these rights from every possible attack of sophistry or ambition, having, with other States, recommended an amendment for that purpose, which amendment was in due time annexed to the Constitution,—it would mark a reproachful inconsistency and criminal degeneracy, if an indifference were now shown to the palpable violation of one of the rights thus declared and secured, and to the establishment of a precedent which may be fatal to the other.

That the good people of this Commonwealth, having ever felt and continuing to feel the most sincere affection for their brethren of the other

States, the truest anxiety for establishing and perpetuating the union of all and the most scrupulous fidelity to that Constitution, which is the pledge of mutual friendship, and the instrument of mutual happiness, the General Assembly doth solemnly appeal to the like dispositions of the other States, in confidence that they will concur with this Commonwealth in declaring, as it does hereby declare, that the acts aforesaid are unconstitutional, and that the necessary and proper measures will be taken by each for co-operating with this State, in maintaining unimpaired the authorities, rights, and liberties reserved to the States respectively, or to the people.

That the Governor be desired to transmit a copy of the foregoing resolutions to the Executive authority of each of the other States, with a request that the same may be communicated to the Legislature thereof; and that a copy be furnished to each of the Senators and Representatives representing this State in the Congress of the United States.

III. MR. MADISON'S LETTER TO EDWARD EVERETT ON THE SUBJECT OF NULLIFICATION.

"MONTPELIER, August, 1830.

"Dear Sir.—I have duly received your letter, in which you refer to the 'nullifying doctrine,' advocated as a constitutional right, by some of our distinguished fellow-citizens; and to the proceedings of the Virginia Legislature in 1798 and 1799, as appealed to in behalf of that doctrine; and you express a wish for my ideas on those subjects.

"I am aware of the delicacy of the task in some respects, and the difficulty in every respect, of doing full justice to it. But, having, in more than one instance, complied with a like request from other friendly quarters, I do not decline a sketch of the views which I have been led to take of the doctrine in question, as well as some others connected with them; and of the grounds from which it appears that the proceedings of Virginia have been misconceived by those who have appealed to them. In order to understand the true character of the Constitution of the United States, the error, not uncommon, must be avoided, of viewing it through the medium, either of a consolidated government, or of a confederated government, whilst it is neither the one nor the other; but a mixture of both. And having, in no model, the similitudes and analogies applicable to other systems of government, it must, more than any other, be its own interpreter, according to its text and *the facts of the case*.

"From these it will be seen, that the characteristic peculiarities of the Constitution are, 1, the mode of its formation; 2, the division of the supreme powers of government between the states in their united capacity, and the states in their individual capacities.

"1. It was formed, not by the governments of the component states, as the Federal Government for which it was substituted was formed. Nor was it formed by a majority of the people of the United States, as a single community, in the manner of a consolidated government.

"It was formed by the states, that is, by the people in each of the states, acting in their highest sovereign capacity; and formed consequently by the same authority which formed the State Constitutions.

"Being thus derived from the same source as the constitutions of the states, it has, within each state, the same authority as the constitution of the state: and is as much a constitution in the strict sense of the term, within its prescribed sphere, as the constitutions of the states are, within their respective spheres; but with this obvious and essential difference, that being a compact among the states in their highest sovereign capacity, and constituting the people thereof one people for certain purposes, it cannot be altered or annulled at the will of the states individually, as the constitution of a state may be at its individual will.

"2. And that it divides the supreme powers of government, between the government of the United States, and the governments of the individual states, is stamped on the face of the instrument; the powers of war and of taxation, of commerce and of treaties, and other enumerated powers vested in the government of the United States, being of as high and sovereign a character as any of the powers reserved to the state governments.

"Nor is the government of the United States, created by the Constitution, less a government in the strict sense of the term, within the sphere of its powers, than the governments created by the constitutions of the states are, within their several spheres. It is like them organized into Legislative, Executive, and Judiciary Departments. It operates, like them, directly on persons and things. And, like them, it has at command a physical force for executing the powers committed to it. The concurrent operation in certain cases, is one of the features marking the peculiarity of the system.

"Between these different constitutional governments, the one operating in all the states, the others operating separately in each, with the aggregate powers of government divided between them, it could not escape attention, that controversies would arise concerning the boundaries of jurisdiction; and that some provision ought to be made for such occurrences. A political system that does not provide for a peaceable and authoritative termination of occurring controversies, would not be more than the shadow of a government; the object and end of a real government being the substitution of law and order, for uncertainty, confusion, and violence.

"That to have left a final decision, in such cases, to each of the states, then thirteen, and already twenty-four, could not fail to make the Constitution and laws of the United States different in different states, was obvious; and not less obvious, that this diversity of independent decisions, must altogether distract the government of the Union, and speedily put an end to the Union itself. A uniform authority of the laws is in itself a vital principle. Some of the most important laws could not be partially executed. They must be executed in all the states, or they could be duly executed in none. An impost, or an excise, for example, if not in force in some states, would be defeated in others. It is well known that this was among the lessons of experience which had a primary influence in bringing about the existing Constitution. A loss of its general authority would moreover revive the exasperating

questions between the states holding ports for foreign commerce, and the adjoining states without them; to which are now added all the inland states, necessarily carrying on their foreign commerce through other states.

"To have made the decisions under the authority of the individual states, co-ordinate, in all cases, with decisions under the authority of the United States, would unavoidably produce collisions incompatible with the peace of society, and with that regular and efficient administration, which is of the essence of free governments. Scenes could not be avoided, in which a ministerial officer of the United States, and the correspondent officer of an individual state, would have rencounters in executing conflicting decrees; the result of which would depend on the comparative force of the local passions attending them, and that, a casualty depending on the political opinions and party feelings in different states.

"To have referred every clashing decision, under the two authorities, for a final decision, to the states as parties to the Constitution, would be attended with delays, with inconveniences, and with expenses, amounting to a prohibition of the expedient; not to mention its tendency to impair the salutary veneration for a system requiring such frequent interpositions, nor the delicate questions which might present themselves as to the form of stating the appeal, and as to the quorum for deciding it.

"To have trusted to negotiation for adjusting disputes between the government of the United States and the state governments, as between independent and separate sovereignties, would have lost sight altogether of a constitution and government for the Union, and opened a direct road from a failure of that resort, to the *ultima ratio* between nations wholly independent of and alien to each other. If the idea had its origin in the process of adjustment, between separate branches of the same government, the analogy entirely fails. In the case of disputes between independent parts of the same government, neither part being able to consummate its will, nor the government to proceed without a concurrence of the parts, necessity brings about an accommodation. In disputes between a state government, and the government of the United States, the case is practically as well as theoretically different; each party possessing all the departments of an organized government, Legislative, Executive, and Judiciary; and having each a physical force to support its pretensions. Although the issue of negotiation might sometimes avoid this extremity, how often would it

happen, among so many states, that an unaccommodating spirit in some, would render that resource unavailing? A contrary supposition would not accord with a knowledge of human nature, or the evidence of our own political history.

"The Constitution, not relying on any of the preceding modifications, for its safe and successful operation, has expressly declared, on the one hand—1, 'that the Constitution, and the laws made in pursuance thereof, and all treaties made under the authority of the United States, shall be the supreme law of the land; 2, that the Judges of every state shall be bound thereby, any thing in the constitution and laws of any state to the contrary notwithstanding; 3, that the judicial power of the United States shall extend to all cases in law and equity arising under the Constitution, the laws of the United States, and treaties made under their authority,' &c.

"On the other hand, as a security of the rights and powers of the states, in their individual capacities, against an undue preponderance of the powers granted to the government over them in their united capacity, the Constitution has relied on—1, the responsibility of the Senators and Representatives in the Legislature of the United States to the Legislatures and people of the states; 2, the responsibility of the President to the people of the United States; and 3, the liability of the Executive and Judicial functionaries of the United States to impeachment by the Representatives of the people of the states, in one branch of the Legislature of the United States, and trial by the Representatives of the states, in the other branch: the state functionaries, Legislative, Executive, and Judicial, being, at the same time, in their appointment and responsibility, altogether independent of the agency or authority of the United States.

"How far this structure of the government of the United States is adequate and safe for its objects, time alone can absolutely determine. Experience seems to have shown that whatever may grow out of future stages of our national career, there is, as yet, a sufficient control, in the popular will, over the Executive and Legislative Departments of the government. When the Alien and Sedition Laws were passed in contravention to the opinions and feelings of the community, the first elections that ensued put an end to them. And whatever may have been the character of other acts, in the judgment of many of us, it is but true, that they have generally accorded with the views of a majority of the states and of the people. At the present day it seems well understood that the laws which have created the most

dissatisfaction, have had a like sanction without doors; and that whether continued, varied, or repealed, a like proof will be given of the sympathy and responsibility of the representative body, to the constituent body. Indeed, the great complaint now is against the results of this sympathy and responsibility in the legislative policy of the nation.

"With respect to the judicial power of the United States, and the authority of the Supreme Court in relation to the boundary of jurisdiction between the Federal and State Governments, I may be permitted to refer to the thirty-ninth number of the 'Federalist,'* for the light in which the subject was regarded by its writer, at the period when the Constitution was depending; and it is believed that the same was the prevailing view then taken of it, that the same view has continued to prevail, and that it does so at this time, notwithstanding the eminent exceptions to it.

"But it is perfectly consistent with the concession of this power to the Supreme Court, in cases falling within the course of its functions, to maintain that the power has not always been rightly exercised. To say nothing of the period, happily a short one, when judges in their seats did not abstain from intemperate and party harangues, equally at variance with their duty and their dignity; there have been occasional decisions from the bench, which have incurred serious and extensive disapprobation. Still it would seem that, with but few exceptions, the course of the Judiciary has been hitherto sustained by the predominant sense of the nation.

"Those who have denied or doubted the supremacy of the judicial power of the United States, and denounce at the same time a nullifying power in a state, seem not to have sufficiently adverted to the utter inefficiency of a supremacy in a law of the land, without a supremacy in the exposition and execution of the law; nor to the destruction of all equipoise between the Federal Government and the State Governments, if, whilst

* No. 39. "It is true, that in controversies relating to the boundary between the two jurisdictions, the tribunal which is ultimately to decide, is to be established under the General Government. But this does not change the principle of the case. The decision is to be impartially made, according to the rules of the Constitution; and all the usual and most effectual precautions are taken to secure this impartiality. Some such tribunal is clearly essential to prevent an appeal to the sword, and a dissolution of the compact; and that it ought to be established under the general, rather than under the local, governments; or, to speak more properly, that it could be safely established under the first alone, is a position not likely to be combated."

the functionaries of the Federal Government are directly or indirectly elected by and responsible to the states, and the functionaries of the states are in their appointment and responsibility wholly independent of the United States, no constitutional control of any sort belonged to the United States over the states. Under such an organization it is evident, that it would be in the power of the states, individually, to pass unauthorized laws, and to carry them into complete effect, any thing in the Constitution and laws of the United States to the contrary notwithstanding. This would be a nullifying power in its plenary character; and whether it had its final effect through the Legislative, Executive, or Judiciary organ of the state, would be equally fatal to the constituted relation between the two governments.

"Should the provisions of the Constitution, as here reviewed, be found not to secure the government and rights of the states against usurpations and abuses on the part of the United States, the final resort, within the purview of the Constitution, lies in an amendment of the Constitution, according to a process applicable by the states.

"And in the event of a failure of every constitutional resort, and an accumulation of usurpations and abuses, rendering passive obedience and non-resistance a greater evil than resistance and revolution, there can remain but one resort, the last of all — an appeal from the cancelled obligations of the constitutional compact, to original rights and the law of self-preservation. This is the *ultima ratio* under all governments, whether consolidated, confederated, or a compound of both; and it cannot be doubted, that a single member of the Union, in the extremity supposed, but in that only, would have a right, as an extra and ultra-constitutional right, to make the appeal.

"This brings us to the expedient lately advanced, which claims for a single state a right to appeal against an exercise of power by the government of the United States decided by the states to be unconstitutional, to the parties to the constitutional compact; the decision of the state to have the effect of nullifying the act of the government of the United States, unless the decision of the state be reversed by three-fourths of the parties.

"The distinguished names and high authorities which appear to have asserted and given a practical scope to this doctrine, entitle it to a respect which might be difficult otherwise to feel for it.

"If the doctrine were to be understood as requiring the three-fourths of the states to sustain, instead of that proportion to reverse the decision of the appealing state, the decision to be without effect during the appeal, it would be sufficient to remark, that this extra-constitutional course might well give way to that marked out by the Constitution, which authorizes two-thirds of the states to institute, and three-fourths to effectuate, an amendment of the Constitution, establishing a permanent rule of the highest authority, in place of an irregular precedent of construction only.

"But it is understood, that the nullifying doctrine imports that the decision of the state is to be presumed valid, and that it overrules the law of the United States, unless overruled by three-fourths of the states.

"Can more be necessary to demonstrate the inadmissibility of such a doctrine, than that it puts it in the power of the smallest fraction over one-fourth of the United States, that is, of seven states out of twenty-four, to give the law and even the Constitution to seventeen states, each of the seventeen having, as parties to the Constitution, an equal right with each of the seven, to expound it, and insist on the exposition? That the seven might, in particular instances, be right, and the seventeen wrong, is more than possible. But to establish a positive and permanent rule giving such a power, to such a minority, over such a majority, would overturn the first principle of free government, and in practice necessarily overturn the government itself.

"It is to be recollected, that the Constitution was proposed to the people of the states as a *whole*, and unanimously adopted by the states as a *whole*, it being a part of the Constitution that not less than three-fourths of the states should be competent to make any alterations in what had been unanimously agreed to. So great is the caution on this point, that in two cases where peculiar interests were at stake, a proportion even of three-fourths is distrusted, and unanimity required to make an alteration.

"When the Constitution was adopted as a whole, it is certain that there were many parts, which, if separately proposed, would have been promptly rejected. It is far from impossible that every part of a Constitution might be rejected by a majority, and yet taken together as a whole be unanimously accepted. Free Constitutions will rarely, if ever be formed, without reciprocal concessions; without articles conditioned on and balancing each other. Is there a Constitution

of a single state out of the twenty-four that would bear the experiment of having its component parts submitted to the people and separately decided on?

"What the fate of the Constitution of the United States would be, if a small proportion of the states could expunge parts of it particularly valued by a large majority, it can have but one answer.

"The difficulty is not removed by limiting the doctrine to cases of construction. How many cases of that sort, involving cardinal provisions of the Constitution, have occurred? How many now exist? How many may hereafter spring up? How many might be ingeniously created, if entitled to the privilege of a decision in the mode proposed?

"It is certain that the principle of that mode would not reach further than is contemplated. If a single state can of right require three-fourths of its co-states to overrule its exposition of the Constitution, because that proportion is authorized to amend it, would the plea be less plausible that, as the Constitution was unanimously established, it ought to be unanimously expounded?

"The reply to all such suggestions seems to be unavoidable and irresistible; that the Constitution is a compact, that its text is to be expounded according to the provisions for expounding it—making a part of the compact; and that none of the parties can rightfully renounce the expounding provision more than any other part. When such a right accrues, as may accrue, it must grow out of abuses of the compact releasing the sufferers from their fealty to it.

"In favor of the nullifying claim for the states, individually, it appears, as you observe, that the proceedings of the Legislature of Virginia, in 1798 and 1799, against the Alien and Sedition Acts, are much dwelt upon.

"It may often happen, as experience proves, that erroneous constructions, not anticipated, may not be sufficiently guarded against, in the language used; and it is due to the distinguished individuals, who have misconceived the intention of those proceedings, to suppose that the meaning of the Legislature, though well comprehended at the time, may not now be obvious to those unacquainted with the contemporary indications and impressions.

"But it is believed, that by keeping in view the distinction between the governments of the states, and the states in which they were parties to the Constitution: between the rights of the parties, in their concurrent and in their individual capacities; between the several modes and objects of interposition against the abuses of power, and

especially between interpositions within the purview of the Constitution, and interpositions appealing from the Constitution to the rights of nature paramount to all constitutions: with an attention, always of explanatory use, to the views and arguments which were combated, the Resolutions of Virginia, as vindicated in the Report on them, will be found entitled to an exposition, showing a consistency in their parts, and an inconsistency of the whole with the doctrine under consideration.

"That the Legislature could not have intended to sanction such a doctrine, is to be inferred from the debates in the Houses of Delegates, and from the address of the two Houses to their constituents, on the subject of the resolutions. The tenor of the debates, which were ably conducted, and are understood to have been revised for the press by most, if not all, of the speakers, discloses no reference whatever to a constitutional right in an individual state, to arrest by force the operation of a law of the United States. Concert among the states for redress against the Alien and Sedition Laws, as acts of usurped power, was a leading sentiment; and the attainment of a concert the immediate object of the course adopted by the legislature, which was that of inviting the other states 'to concur in declaring the acts to be unconstitutional, and to co-operate by the necessary and proper measures in maintaining unimpaired the authorities, rights, and liberties reserved to the states respectively, and to the people.'* That by the necessary and proper measures to be *concurrently* and *co-operatively* taken, were meant measures known to the Constitution, particularly the ordinary control of the people and legislatures of the states, over the Government of the United States, cannot be doubted; and the interposition of this control, as the event showed, was equal to the occasion.

"It is worthy of remark, and explanatory of the intentions of the Legislature, that the words 'not law, but utterly null, void, and of no force or effect,' which had followed, in one of the resolutions, the word 'unconstitutional,' were struck out by common consent. Though the words were in fact but synonymous with 'unconstitutional,' yet to guard against a misunderstanding of this phrase as more than declaratory of opinion, the word 'unconstitutional' alone was retained, as not liable to that danger.

"The published Address of the Legislature to the people, their constituents, affords another con-

* See the concluding resolution of 1798.

clusive evidence of its views. The address warns them against the encroaching spirit of the General Government, argues the unconstitutionality of the Alien and Sedition Acts, points to other instances in which the constitutional limits had been overleaped: dwells upon the dangerous mode of deriving power by implication; and in general presses the necessity of watching over the consolidating tendency of the federal policy. But nothing is said that can be understood to look to means of maintaining the rights of the states, beyond the regular ones, within the forms of the Constitution.

"If any further lights on the subject could be needed, a very strong one is reflected in the answers to the resolutions, by the states which

protested against them. The main objection of these, beyond a few general complaints of the inflammatory tendency of the resolutions, was directed against the assumed authority of a state legislature to declare a law of the United States unconstitutional, which they pronounced an unwarrantable interference with the exclusive jurisdiction of the Supreme Court of the United States. Had the resolutions been regarded as avowing and maintaining a right, in an individual state, to arrest, by force, the execution of a law of the United States, it must be presumed that it would have been a conspicuous object of their denunciation.

"With cordial salutations,

"JAMES MADISON."

CHAPTER XVI.

1798-1800.

MILITARY AND NAVAL AFFAIRS.

Increase in the regular army — Establishment of the Navy Department — Additional vessels for the navy — Arming of merchant vessels — Strength of the navy — A direct tax to supply funds — Washington in command of the army — The dispute over the appointment of Hamilton, Pinckney and Knox — Naval actions — The *Baltimore* incident — The *Constellation* and *L'Insurgente* — Affairs in San Domingo — The attack on the *Experiment* — The *Constellation* and *La Vengeance* — The *Boston* and *Le Bercieu* — Privateers.

While hope was expressed that the dispute with France would be settled diplomatically, Congress enacted legislation to place the country on a war footing. Among the measures adopted was one to increase the regular army. A regiment of artilleryists and engineers was added to the permanent establishment, and the President was empowered to raise twelve additional regiments of infantry and one regiment of cavalry, to serve until the existing differences with France should be adjusted, unless sooner discharged. He was authorized also to appoint officers for the provisional army, who were not to receive pay unless called into active service. Another im-

portant measure provided for the establishing of the Navy Department. Prior to this time matters relating to the maritime force and service had been under the direction of the Secretary of War; but now that a naval force was imperatively demanded a separate department became necessary. Toward the close of April, 1798, the Navy Department was established, the act being passed by a vote of 42 to 27 and approved April 30.* The office of secretary was offered first to George Cabot, of Massachusetts; but, on his declination, Benjamin Stoddert, of Maryland, was nominated. His nomination being confirmed,

* *Statutes-at-Large* (Peters), vol. i., p. 553.

Stoddert took charge of the department on June 18.*

Several times Presidents Washington and Adams had urged the importance of national defence and naval preparation.† By the acts of June 23 and 24 and July 1, 1797, Congress authorized the President to provide for fortifications, to call out the militia, and to increase the force of revenue cutters.‡ In 1797 the revenue cutter service consisted of about 15 small vessels, mostly tugs and schooners. On March 27, 1797, an act was passed providing for the equipment of the frigates *United States*, *Constellation* and *Constitution*. The first of these vessels to be placed in commission was the *United States*, which was launched at Philadelphia May 10. She was followed on September 7 by the *Constellation* at Baltimore and on October 21 by the *Constitution* at Boston.||

* Allen, *Our Naval War With France*, p. 54. For the debates, see *Annals of Congress*, 5th Congress, 2d session, vol. ii., pp. 1545-1554; Benton, *Abridgment of Debates*, vol. ii., pp. 248-252.

† See their messages of December 7, 1796, May 16 and November 22 and 28, 1797, in Richardson, *Messages and Papers*, vol. i., pp. 201, 236-237, 253, 256.

‡ *Statutes-at-Large* (Peters), vol. i., pp. 521-523.

|| Report of Secretary James McHenry, *American State Papers, Naval Affairs*, vol. i., pp. 28, 32. See also Allen, *Our Naval War With France*, p. 48; McMaster, vol. ii., p. 323, *et seq.*; J. F. Cooper, *History of the Navy of the United States*, vol. i., p. 152; Maclay, *History of the Navy*, vol. i., pp. 158-159. There is a variance in the date of the launching of the *United States* and the *Constitution*, some giving July 10 and others September 20. Lossing, *War of 1812*, p. 100, says the *Constitution* was launched September 20 and on p.

On April 27 the President was empowered to build, purchase, and hire not more than twelve vessels, none of which should carry more than 22 guns, \$950,000 being appropriated to construct, or purchase, arm, equip and man them.* On May 4 authority was given to build or purchase not more than ten galleys; on June 22 the revenue cutter system was ordered to be increased; and on June 30 twelve additional vessels were authorized.† Of the 24 vessels provided by the acts of April 27 and June 30, 12 were to carry from 20 to 24 guns each, six not

436 says October 21. In speaking of the creation of the navy, Gallatin said: "I am sensible that an opinion of our strength will operate to a certain degree on other nations, but I think a real addition of strength will go farther in defending us than mere opinion. If the sums to be expended to build and maintain the frigates were applied to paying a part of our national debt, the payment would make us more respectable in the eyes of foreign nations than all the frigates we can build. To spend money unnecessarily at present will diminish our future resources, and, instead of enabling us, will perhaps render it more difficult for us, to build a navy some years hence."

* * * Perhaps I may be asked if we are then to be left without protection. I think there are means of protection which arise from our peculiar situation, and that we ought not to borrow institutions from other nations, for which we are not fit. If our commerce was increased, notwithstanding its want of protection; if we have a greater number of seamen than any other nation except England—this, I think, points out the way in which commerce ought to be protected. The fact is, that our only mode of warfare against European nations at sea is by putting our seamen on board privateers, and covering the sea with them: these would annoy and distress them more than any other mode of defence we can adopt."—Adams, *Life of Gallatin*, p. 170.

* Winsor, *Narrative and Critical History*, vol. vii., p. 362; Maclay, *History of the Navy*, vol. i., p. 162.

† Cooper, *Naval History*, vol. i., pp. 152-153.

less than 32 guns, and six not more than 18 guns. On July 16 an act was passed directing the completion of the three frigates authorized in 1794. These were named the *President*, *Congress*, and *Chesapeake*, the first of 44 guns and the other two of 36 each. The act of June 30 provided that vessels be constructed with money advanced by citizens on the credit of the United States, and under this provision were constructed the *Philadelphia* and *New York*, 36's; the *Essex*, 32; the *Boston* and *John Adams*, 28's; the *Merrimack*, 24; the *Maryland* and *Patapsco*, 20's; and the *Richmond*, 18. Under the acts of April 27 and June 30 several other vessels were built or purchased and converted into war vessels; the *General Greene* and *Adams*, 28's and the *George Washington*, *Trumbull*, *Connecticut*, *Portsmouth* and *Ganges*, 24's. There were nearly 20 vessels of smaller size. On February 25, 1799, an act was passed authorizing six ships of the line of 74 guns each and six sloops of 18 guns each, but these provisions of the act were never carried out.*

Supplementing the regular navy were numerous privateers. The act of June 25, 1798, provided that merchant vessels might arm to protect themselves from attack by French cruisers or privateers, capture the aggressors if possible, and recapture

American vessels taken by the French. The act of July 9 authorized the President to grant special commissions to private armed ships, and such vessels, when duly commissioned, should have the same license and authority as public armed vessels to subdue, seize or capture French armed vessels. Under this act 365 private armed vessels were placed in commission before March 1, 1799. Of these, 129 came from New England, principally Massachusetts. New York, Pennsylvania, and Maryland furnished over 60 each, the rest coming from the South. Most of these vessels were armed only for defense, and carried but a small force of men and few guns. They would have little to do, since they could not attack the enemy's commerce, but only armed vessels; and the less so because French commerce had been almost entirely swept from the sea by British war vessels.*

During the French hostilities of 1798-1801, the naval force of the United States consisted of 45 vessels, of which 21 were built for the service, 11 were purchased, 5 were captured during the war, and 8 were transferred from the Treasury Department. There were about the same number of revenue cutters held ready for harbor defense, and 9 galleys built for the navy were utilized in the same service. Of the naval vessels, three were rated as 44's and six as 36 gun frigates;

* Allen, *Our Naval War With France*, pp. 55-57. See also Cooper, *Naval History*, vol. i., pp. 152-153; Winsor, *Narrative and Critical History*, vol. vii., pp. 362-363.

* Allen, *Our Naval War With France*, pp. 58-59.

there were one 32, four 28's, six 24's, six 20's and four 18's. The others were small vessels. There were 700 officers and about 5,000 men in the navy, besides 1,100 men and officers in the marine corps.*

Among the officers were many who later became famous in the naval annals of the country: Samuel Nicholson, who was the first officer to issue orders from the deck of the *Constellation*; the two Decatur, father and son; Isaac Hull; Thomas Truxtun, who took the French frigate *L'Insurgente*; William Bainbridge, John Rodgers, Charles Stewart, Andrew Sterett, who captured the French corvette, *Berceau*, and David Porter.†

To meet the expenses incident to placing the country in a state of defence, additional funds became necessary, and the subject was taken up by Congress. On being requested to furnish information as to the sum required, the Secretary of the Treasury reported on May 1, 1798, that it would be necessary to raise \$2,000,000 by a direct tax on land, houses, and slaves.‡ Bills were subsequently introduced for the valuation of lands, the enumeration of slaves, and to levying of a

direct tax. On every slave from twelve to fifty years of age the tax was to be 50 cents; on every house, out-house, and lot valued at \$200, 40 cents; on houses valued from \$200 to \$500, one-fifth of one per cent; on those valued at from \$500 to \$1,000, 30 cents per \$100; and on estates of \$30,000, one per cent.* It was not until July, however, that the President was authorized (Act July 14, 1798) to borrow \$2,000,000 in anticipation of the amount. According to the estimates, the tax on houses, as proposed, would produce \$1,315,000 and the tax on slaves \$228,000, thus leaving to be raised by an assessment, *ad valorem*, on lands the sum of \$457,000.† “ To answer present exigencies, another act was passed [July 16, 1798] enabling the President to borrow \$5,000,000 for the public service, on the most advantageous terms which could be obtained, the stock issued for the loan to be reimbursible at the end of fifteen years, and the money to be applied to make up the deficiency in the appropriations and defray the expenses of national defence. For the payment of interest and the reimbursement of principal,

* Allen, *Our Naval War with France*, pp. 61–62. A list of vessels is on pp. 301–303.

† McMaster, vol. ii., pp. 387–388. A full list of the commanding officers who served during the war will be found in Allen, *Our Naval War With France*, pp. 303–305.

‡ For the complete report, see *American State Papers, Finance*, vol. i., pp. 579–588. The report of the committee, with recommendations, is in *Annals of Congress*, 5th Congress, 2d session, vol. ii., pp. 1563–1566.

* McMaster, vol. ii., p. 389. See also Bolles, *Financial History*, pp. 119–121. For the debate, see *Annals of Congress*, 5th Congress, 2d session, vol. ii., pp. 1595–1631, 1837–1854, 1893–1898, 1917–1925, 2049–2061, 2066; Benton, *Abridgment of Debates*, vol. ii., pp. 265–272, 302–304.

† Wolcott's report, May 25, 1798, *American State Papers, Finance*, vol. i., pp. 588–590. See also *Annals of Congress*, 5th Congress, 3d session, vol. iii., pp. 3594–3597; Bolles, *Financial History*, p. 121; Dewey, *Financial History*, pp. 109, 110.

the surplus of import and tonnage duties was bound, and the faith of the United States pledged to provide permanent revenues for any deficiency.”*

Though devoted to agricultural pursuits and engaged but little in affairs of the outside world,† Washington had taken a deep interest in the progress of political events. He, too, was highly indignant at the course of the French government and approved of the vigorous measures adopted for the defense of the country. When a resort to arms seemed likely, all eyes turned to Washington as the man to command the army. Letters from all sections of the country poured in upon him,‡ and on June 22 President Adams wrote our first President: “We must have your name, if you will permit us to use it. There will be more efficacy in it than in many an army.”|| In reply, Washington said:

“At the epoch of my retirement, an invasion of these states by any European power, or even the probability of such an event in my days, was so far from being contemplated by me, that I had no conception either that, or any other occurrence, would arrive in so short a period, which could turn my eyes from the shades of Mount Vernon. But this seems to be the age of wonders; and it is

* Gibbs, *Administrations of Washington and Adams*, vol. ii., p. 67. See also Schouler, *United States*, vol. i., p. 415; Bolles, *Financial History*, pp. 195–197.

† Tobias Lear, *Letters and Recollections of George Washington* (the edition by Doubleday, Page and Company, New York, 1906), gives a comprehensive insight into his private life during this period. For other details, see Sparks, *Life of Washington*, p. 481 et seq.

‡ Bassett, *Federalist System*, p. 240.

|| John Adams, *Works*, vol. viii., p. 573; Sparks, *Life of Washington*, p. 483; Irving, *Life of Washington*, vol. v., p. 308.

reserved for intoxicated and lawless France, (for purposes far beyond the reach of human ken,) to slaughter her own citizens, and to disturb the repose of all the world besides.

“From a view of the past—from the prospect of the present—and of that which seems to be expected, it is not easy for me to decide satisfactorily on the part it might best become me to act. In case of actual invasion by a formidable force, I certainly should not entrench myself under the cover of age and retirement, if my services should be required by my country to assist in repelling it. And if there be good cause to expect such an event, which certainly must be better known to the government than to private citizens, delay in preparing for it may be dangerous, improper, and not to be justified by prudence. The uncertainty, however, of the latter, in my mind, creates my embarrassment; for I cannot bring it to believe, regardless as the French are of treaties and of the laws of nations, and capable as I conceive them to be of any species of despotism and injustice, that they will attempt to invade this country, after such a uniform and unequivocal expression of the determination of the people in all parts to oppose them with their lives and fortunes. That they have been led to believe by their agents and partisans among us, that we are a divided people; that the latter are opposed to their own government; and that the show of a small force would occasion a revolt, I have no doubt; and how far these men (grown desperate) will further attempt to deceive, and may succeed in keeping up the deception, is problematical. Without that, the folly of the Directory in such an attempt would, I conceive, be more conspicuous, if possible, than their wickedness.

“Having with candor made this disclosure of the state of my mind, it remains only for me to add, that to those who know me best it is best known, that should imperious circumstances induce me to exchange once more the smooth paths of retirement for the thorny ways of public life, at a period too when repose is more congenial to nature, that it would be productive of sensations which can be more easily conceived than expressed.”

It will be remembered that President Adams had retained Washington's Cabinet and that the majority of the Cabinet were devoted political and personal friends of Hamilton.

Differing with the President as to England's attitude toward the United States and also in their estimate of Hamilton, it was inevitable that a collision should soon occur. The first clash occurred after Congress had adjourned in July, 1798. As President, it was Adams' duty to appoint the officers of the provisional army which Congress had called into being. Defering to the universal wish rather than to any strong desire of his own, Adams nominated Washington commander-in-chief, and on July 3 the Senate unanimously confirmed the choice.* Secretary of War McHenry was sent to Mt. Vernon as the bearer of the commission.†

Meanwhile a Cabinet marplot was hatching to bring Hamilton into the second place in command and to thwart the President's natural desire to control subordinate nominations, as was his right under the Constitution. Without the President's knowledge, the Cabinet members and other Federalists attempted to accomplish their purpose by working directly on Washington. The Cabinet conclave appears to have thought that if Washington accepted the appointment as commander-in-chief, his age would prevent his taking active part in military affairs, and that if Hamilton could be placed second in command, the military operations would speed-

ily fall under his direction. Though he had lately declined an appointment by Governor Jay to the vacant New York Senatorship, Hamilton seems to have exhibited not a little anxiety for the military distinction to be gained from the second position in the army. Jay then wrote to Washington recommending Hamilton's appointment as second in command. Pickering, whose opinion carried great weight, took advantage of a delay in McHenry's departure to write a note to Washington also urging the selection of Hamilton for the second office. Hamilton, who had long before acquainted Washington with his desire for the appointment, now audaciously undertook to modify McHenry's instructions by making him the bearer of a personal letter to the commander-in-chief. Though nominally the President's confidential messenger, the Secretary of War bore a letter which not only entreated Washington (in terms which would hardly have been sanctioned by Adams) to accept his own commission, but told him, besides, that the President had no relative ideas and that his military prepossessions were of an entirely wrong sort.*

Washington was well aware of the relations existing between Hamilton and Adams. He accepted the appointment as commander-in-chief with two reservations: "First, that the principal officers should be such as he approved; secondly, that he should not

* Sparks, *Life of Washington*, p. 484; Schouler, *United States*, vol. i., p. 417.

† Irving, *Life of Washington*, vol. v., p. 310; John Adams, *Works*, vol. viii., pp. 573-574.

* Schouler, *United States*, vol. i., p. 418.

be called into the field, till the army was in a condition to require his presence, or till it became necessary by the urgency of circumstances. He added, however, that he did not mean to withhold any assistance he could afford in arranging and organizing the army; and, in conformity with the rule he had always followed, he declined receiving any part of the emoluments annexed to his appointment, until he should be in a situation to incur expense." * He said also:

"Believe me, sir, no one can more cordially approve of the wise and prudent measures of your Administration. They ought to inspire universal confidence, and will no doubt, combined with the state of things, call from Congress such laws and means as will enable you to meet the full force and extent of the crisis. Satisfied, therefore, that you have sincerely wished and endeavored to avert war, and exhausted to the last drop the cup of reconciliation, we can, with pure hearts, appeal to Heaven for the justice of our cause, and may confidently trust the final result to that kind Providence who has heretofore, and so often, signally favored the people of these United States." †

The appointment of officers of the higher grade was an embarrassing matter. "Some of those who had served in the Revolution, were prominent candidates for appointments in the new army. It became a question, whether their former rank should be taken into account. If this were decided in the affirmative, it would deprive the army of the services of men,

whose talents, activity, and influence were of the greatest moment, but who would not accept subordinate places. It was the opinion of Washington that since the old army had long been disbanded, and a new one was now to be formed upon different principles, and for a different object, no regard ought to be paid to former rank, but that the best men should be selected, and so arranged as most effectually to promote the public good. This opinion prevailed." * In accordance with his stipulation that the general officers and general staff of the army should not be appointed without his concurrence, Washington named Alexander Hamilton as inspector-general and second in command, † and Charles Cotesworth Pinckney and Henry Knox as major-generals. ‡ Adams submitted these nominations to Congress, by whom they were promptly confirmed, || and, as soon as the extra session adjourned (July 19), departed for his home in Quincy.

Hardly had he arrived there when he found the question as to who was to be second in command still a matter

* Sparks, *Life of Washington*, pp. 484-485.

† For his work in this connection, see Lodge, *Alexander Hamilton*, pp. 207-208; Sumner, *Life of Alexander Hamilton*, p. 225 et seq.

‡ Irving, *Life of Washington*, vol. v., p. 312, and for Knox's letter, p. 314. See also Ford's ed. of *Washington's Writings*, vol. xiv., pp. 8, 29, 33, 40, 92-104; Hamilton's ed. of *Hamilton's Works*, vol. vi., pp. 290-294, 326, 327. A complete list of the officers will be found in *American State Papers, Military Affairs*, vol. i., pp. 147-151.

|| *Annals of Congress*, 5th Congress, special session, vol. i., pp. 623-624.

* Sparks, *Life of Washington*, p. 484; Lodge, *George Washington*, vol. ii., p. 280. See the letter in *Annals of Congress*, 5th Congress, special session, vol. ii., pp. 621-623.

† Richardson, *Messages and Papers*, vol. i., p. 268; *American State Papers, Foreign Relations*, vol. ii., p. 202.

of dispute. Hamilton's friends claimed the position for him on the ground that his name was first on the list of major-generals. Many New England papers insisted that this position belonged to Knox, because he had held a higher rank in the Revolutionary army. Adams particularly disliked Hamilton and was very suspicious of his designs and purposes; moreover, he liked Knox and preferred to give the position to him. But Hamilton's friends, both in and out of the Cabinet, determined to prevent if possible; and McHenry, the Secretary of War, sent to Adams several letters, drafted by Hamilton himself, the purpose of which was to reconcile Knox to a subordinate position and to induce Adams to confirm the appointments in the order given by Washington.* These letters displeased Adams, who said: "There has been too much intrigue in this business with General Washington and me." He therefore ordered that the commissions of the three major-generals be made out with Knox first, Pinckney second, and Hamilton third. This action caused great consternation in the Cabinet coterie at Philadelphia. Hamilton declared that he would not accept a commission under such an arrangement; while Pickering, in order to force the President to reverse his decision, drafted a remonstrance (peremptory in tone) to be signed by all the members of the

Cabinet. But Wolcott, a much better diplomatist than his colleague, suppressed the draft and, persuading Hamilton to remain quiet, sent a private letter to Adams in which he tactfully disentangled the badly managed affair. To these representations Adams seems to have yielded. Moreover, on September 25 Washington wrote Adams a letter to the effect that he would regard this arrangement as a violation of the condition upon which he had accepted the chief command, threatening to resign if the list as arranged by him were not ratified. Thereupon Adams reluctantly acquiesced.* General Pinckney accepted the post offered him but Knox, dissatisfied with the rank assigned him, refused to serve.†

During November and December of 1798 Washington was at Philadelphia, busily occupied with Hamilton and Pinckney in concerting plans for raising and organizing the army;‡ and thenceforward until his death,

* Mr. Gibbs (vol. ii., pp. 86-104) enters into details respecting this matter of the appointment of officers, etc. Mr. C. F. Adams, on the other hand (John Adams, *Works*, vol. i., pp. 520-534) presents an elaborate review of the plans and purposes of Hamilton and the members of the Cabinet. See also vol. viii., pp. 574-575, 587-590, 593-594, 600-604. See also Parton, *Life and Times of Aaron Burr*, p. 234 *et seq.*; Morse, *John Adams*, p. 289 *et seq.*

† Ford's ed. of Washington's *Writings*, vol. xiv., pp. 58, 65, 92; Hamilton's ed. of Hamilton's *Works*, vol. vi., pp. 322, 325-346; Adams, *Works*, vol. viii., pp. 578-579.

‡ For the various measures proposed by Hamilton, see Lodge, *Alexander Hamilton*, p. 208 *et seq.*

* Schouler, *United States*, vol. i., pp. 420-421.

much of his time was bestowed on military affairs. Sparks says:

"His correspondence with the secretary of war, the major-generals, and other officers, was unremitted and very full, entering into details, and communicating instructions, which derived value from his long experience and perfect knowledge of the subject. His letters during this period, if not the most interesting to many readers, will be regarded as models of their kind, and as affording evidence that the vigor and fertility of his mind had not decreased with declining years. * * * He never seriously believed that the French would go to the extremity of invading the United States. But it had always been a maxim with him, that a timely preparation for war afforded the surest means for preserving peace; and on this occasion he acted with as much promptitude and energy, as if the invaders had been actually on the coast. His opinion proved to be correct, and his prediction was verified." *

Washington's talents were never called into active service in the present emergency, however, for the commissioners of the two countries soon entered upon negotiations to settle the dispute peaceably.

While preparations were in progress on land, the naval forces were acquitting themselves with honor. The first vessel to set forth (May 22, 1798) was the *Ganges*, 24, which sailed from Philadelphia, May 24, under Captain Richard Dale. Four days later the act of May 28 was passed by Congress and Dale was authorized to seize, take, and bring into any port of the United States any French armed vessel which had committed, or was hovering on the coast of the United States for the purpose of committing, depredations

on American commerce.* Though the cruise of the *Ganges* lasted several months, it seems to have been uneventful.†

In June the *Constellation*, under Thomas Truxtun, and the *Delaware*, 20, under Stephen Decatur, Sr., were ordered to sea, to cruise along the Atlantic coast. The *Delaware*, a small vessel of 180 tons, sailed July 6, and soon sighted four schooners. Standing off as if anxious to avoid them, Decatur induced one to give chase. When near enough to ascertain the character of the *Delaware*, the Frenchman attempted to escape, but, after a long chase off the Jersey coast, Decatur overhauled her and compelled her to surrender. She proved to be the French privateer schooner, *Le Croyable*, of 14 guns, from Cape François. The prize was brought up the bay, her crew landed, the vessel condemned, and, having been renamed the *Retaliation*, was taken into the American service and placed under command of Lieutenant William Bainbridge.‡ The *Constellation* met with no exciting adventures on her first cruise.

* Winsor, *Narrative and Critical History*, vol. vii., p. 363; Cooper, *Naval History*, vol. i., p. 155; Maclay, *History of the Navy*, vol. i., p. 164; Lossing, *Field-Book of the War of 1812*, p. 100.

† *United States Naval Chronicle*, pp. 90-92.

‡ Maclay, *History of the Navy*, vol. i., p. 165; Allen, *Our Naval War With France*, pp. 64, 65; Cooper, *Naval History*, vol. i., p. 155. Thus the *Ganges*, the first man-of-war that ever got to sea under the existent organization of the navy, and the first after the adoption of the Constitution, made the first capture of the war, which was also the first capture under the present form of government. (Lossing, *Field-Book of the War of 1812*, p. 101.)

* Sparks, *Life of Washington*, pp. 485, 486.

Early in July the *United States* (Captain John Barry) set sail to cruise between Cape Henry and Nantucket.* On the 11th he was directed to cruise among the Lesser Antilles, in company with the *Delaware* (Captain Decatur), the *Herald*, 18 (Captain James Sever), and the Revenue cutter *Pickering*, 14 (Captain Jonathan Chapman).† He was directed also to request the governor of Porto Rico to release certain Americans held there who had been captured by French cruisers. The *United States* and the *Delaware* proceeded to Boston, where they were to be joined by the *Herald* and the *Pickering*. On the way they fell in with a large ship, and the *United States* approached her. Both vessels displayed French flags and were about to engage, when their identity became known to each other, the stranger proving to be a British 50-gun ship — the *Thetis*. Thereafter a system of private signals was established whereby British and American vessels might recognize one another before engaging.‡ Barry proceeded to Boston, but, finding that the *Herald* and the *Pickering* were not ready, set sail for the West Indies, July 26, with the *United States* and the *Delaware*.||

* Aboard the ship were several men later famous in the naval annals of the country — Charles Stewart, Richard Somers, James Barron, Stephen Decatur, Jr., and Jacob Jones. Maclay, *History of the Navy*, vol. i., p. 170; Cyrus Townsend Brady, *Life of Stephen Decatur*, p. 7 et seq.

† Cooper, *Naval History*, vol. i., p. 156.

‡ Maclay, *History of the Navy*, vol. i., p. 170.

|| Martin I. J. Griffin, *Commodore John Barry*, pp. 349-356 (1903). See also Allen, *Our Naval*

After a cruise of two months, Barry with his little squadron returned to Delaware Bay, having accomplished little save the capture of two small privateers — the *Sans Pareil*, 16 and the *Jaloux*, 14. During the fall the *United States* and the *Delaware* patrolled the coast, but the former sprung her bowsprit and was forced to put in. On December 7, after the damages had been repaired, Barry was ordered to proceed with the *United States* to the West Indies to take command of the squadron there.* While cruising alone, the *Delaware* took the *Marsouin*, 10.

On July 2, 1798, the *Constitution* (Captain Samuel Nicholson) set sail,† and in August was directed to cruise along the coast south of Cape Henry. On September 8 he fell in with a 24-gun ship sailing under British colors and boarded her. Her officers were French and her crew was mixed — Spanish and French. Concluding that she was French, Nicholson took her to Norfolk as a prize. She proved to be a British privateer, the *Niger*, and the government was compelled to release her and to pay about \$11,000 damages.‡ In the following

War with France, pp. 66-67; William Barry Meany, *Commodore John Barry, The Father of the American Navy* (1911).

* Griffin, *Life of Barry*, pp. 358, 359, 361-364, 366-372; A. S. Mackenzie, *Life of Stephen Decatur*, pp. 26-29.

† One of her lieutenants was Isaac Hull, who afterward won the first of his famous victories in the War of 1812.

‡ Allen, *Our Naval War With France*, pp. 70-71.

January Nicholson sailed for the West Indies to join Commodore Barry's squadron.

In October of 1798 the *Montezuma*, 20 (Captain Alexander Murray), the brig *Norfolk*, 18 (Captain Thomas Williams) and the prize schooner *Retaliation*, 14 (Lieutenant William Bainbridge), sailed from Norfolk to protect American commerce about Guadeloupe, St. Martin, and Porto Rico. They recaptured an American brig from the French. On November 20, off Guadeloupe, Murray sighted two sail in the west and almost at the same time three vessels in the eastward. The *Retaliation* informed Murray that the three vessels were the British frigates and a three-masted lugger which had been seen the day before. The *Montezuma* and the *Norfolk* then chased the two vessels to the west, leaving the *Retaliation* and her prize to come up later. Signals were made to the supposed British vessels, but no answer was received, nor were any colors seen when the American flag was hoisted. Nevertheless, unsuspecting, the *Retaliation* allowed the three vessels to come up,* and not until two of the vessels had approached too near for him to escape, did Bainbridge discover that they were the French frigates *L'Insurgente*, 36, and the *Volontaire*, 44.†

These vessels hoisted the French colors, fired a shot into the *Retaliation*, and Bainbridge, having no alternative, struck his colors. *L'Insurgente* then set out in pursuit of the *Montezuma* and *Norfolk*, but when the French commander of the *Volontaire* was deceived by Bainbridge into believing that the American ships were of vastly superior armament, *L'Insurgente* was recalled.* A few minutes later Bainbridge admitted the deception, but it was too late to renew the chase, and thus the Americans escaped.† The captive officers were retained in the French frigates and the crew were placed in prison at Guadeloupe, where many other prisoners were confined. Subsequently Bainbridge and the other American prisoners, nearly 250 in number, were released and sent back to the United States.‡ Meanwhile the *Montezuma* and *Norfolk* had overhauled the sternmost of the vessels they were chasing and found that she was an American schooner recently taken by the French. The three ships then made for Antigua, and had been there but a short time when the prize which had been with the *Retaliation* arrived. Her crew had not been

* Bainbridge said the *Montezuma* had 28 12-pounders and the *Norfolk* 20 9-pounders, which was double their actual armament. (Maclay, *History of the Navy*, vol. i., p. 166).

† Thomas Harris, *Life and Services of Commodore William Bainbridge*, pp. 25-27; Cooper, *Naval History*, vol. i., pp. 163-164.

‡ Harris, *Life of Bainbridge*, pp. 27-35. See also Allen, *Our Naval War With France*, pp. 73-75; Maclay, *History of the Navy*, vol. i., pp. 168-169.

* Maclay, *History of the Navy*, vol. i., pp. 165-166.

† Cooper (*Naval History*, vol. i., p. 163) says the former was pierced for 32 guns, but carried 40 and the latter, though pierced for 36, carried 44 guns.

landed with the other Americans at Guadeloupe; they recaptured the vessel and escaped with her.*

On the morning of November 16 the *Baltimore* underwent a trying experience with a British fleet. After the *Constitution* had returned to Boston for repairs, the *Baltimore* was left alone with a convoy bound from Charleston for Havana. On November 16 a squadron of three British ships of the line and two frigates (the *Carnatick*, 74, the *Queen*, 98, the *Thunderer*, 74, the *Maidstone*, 32, and the *Greyhound*, 32) hove in sight, and Captain Isaac Phillips, fearing that the convoy might be detained, ordered it to crowd on all sail and get to Havana as soon as possible. All but three of the vessels arrived safely, and the three detained were afterward released. Meanwhile the *Baltimore* approached the British flagship, the *Carnatick*, and on the invitation of the British commodore, Loring, Phillips went aboard. The British officer then informed Phillips that he intended to impress such members of the *Baltimore's* crew as could not produce American protections (papers proving their American citizenship). Phillips protested, but on his return to his ship found a British officer already examining the muster roll. Phillips finally allowed 55 of his crew to be taken away, at the same time hauling down his flag. The British commander disregarded this action and later returned 50 of the men, appar-

ently fearing that his government would not sanction such wholesale impressment. He offered to exchange certain other Americans in his possession (probably impressed from other vessels) for any Englishmen in the *Baltimore's* crew, but Phillips rejected the offer. For his lack of spirit on this occasion, Phillips was summarily dismissed from the service, though, as there were extenuating circumstances, he should at least have been granted a court-martial.*

The *United States*, under Barry, cruised among the Windward Islands until the spring of 1799. On February 3, while to windward of Martinique, she chased and captured a small French privateer, *l'Amour de la Patrie*, carrying 6 guns and a crew of 80 men. About the same time Barry captured another privateer, the *Tartufe*, of 8 guns and 60 men.† Now having a considerable number of prisoners, Barry, under a flag of truce, sailed to Guadeloupe, in the hope of exchanging them for an equal number of Americans in captivity. On his arrival at Guadeloupe, however, the fort fired upon his vessel, whereupon, hauling down his white flag,

* Cooper, *Naval History*, vol. i., pp. 157-163; Allen, *Our Naval War With France*, pp. 76-81, and authorities cited; Maclay, *History of the Navy*, vol. i., pp. 170-172. See also *An Impartial Examination of the Case of Captain Isaac Phillips* (Baltimore, 1825); Lossing, *Field-Book of the War of 1812*, p. 102; and the letters in *American State Papers, Foreign Relations*, vol. ii., pp. 203-204.

† Maclay, *History of the Navy*, vol. 1., pp. 175-176. As usual, the statistics relating to armament and crews differ widely.

* Allen, p. 76.

Barry in turn bombarded the fort.* Shortly afterward he made another attempt to exchange prisoners, but Governor Desfourneaux assured him there were no Americans on the island, whereupon he landed his French prisoners (being anxious to be rid of them) and departed. The governor assured Barry that he did not recognize that a state of war existed between France and the United States and that Guadeloupe was open to American trade.†

Early in February of 1799, while cruising near St. Kitts and 15 miles off the island of Nevis, in the Leeward Islands, Commodore Truxtun in the *Constellation*, sighted a large ship and crowded on sail to overhaul her. As she did not answer the signals of the *Constellation*, Truxtun suspected her to be an enemy, in which supposition he was correct; for the vessel hoisted the French colors and fired a shot to windward — the signal of an enemy.‡ Truxtun got under the enemy's lee, so as to work his guns with greater facility. As soon as the *Constellation* got abreast of the enemy, she hailed several times, but no answer was received. Truxtun then ordered the gunners, as soon as the guns could be brought to bear, to fire directly into the enemy's hull and to load princi-

pally with two-round shot. At 3.15 o'clock the combat began and the *Constellation* soon secured the advantage, promptly shooting away the topmast of the enemy, thus rendering her somewhat unmanageable. The *Constellation* then forged ahead of the enemy, compelling her to man her other battery. After some maneuvering, the French frigate succeeded in firing three broadsides, which did considerable damage to the rigging of the *Constellation*, since most of the French shots were aimed very high. Cooper says* that the *Constellation* "suffered most in her sails and rigging, and while under the heaviest of the fire of her antagonist, the fore-topmast was badly wounded, quite near the lower cap. The foretop was commanded by Mr. David Porter, a midshipman of great promise, and, finding that his hails to communicate this important circumstance were disregarded, in the heat of the combat, this young officer took on himself the responsibility of cutting the stoppers and of lowering the yard. By thus relieving the spar of the pressure of the sail, he prevented the fall of the topmast and all its hamper. In the meantime the weight and effect of the fire were altogether in favor of the *Constellation*, and notwithstanding the injury she received in her fore-top-mast, that ship was soon able to throw in two or three raking broadsides, which decided the combat. After maintain-

* Maclay, p. 176.

† Griffin, *Commodore John Barry*, pp. 377-378, 383-387; Mackenzie, *Life of Stephen Decatur*, pp. 31-34. See also Allen, *Our Naval War With France*, pp. 89-92.

‡ Maclay, *History of the Navy*, vol. i., pp. 177, 178.

* *Naval History*, vol. i., pp. 168-169.

ing a close contest, in this manner, of about an hour, the *Constellation* shot out of the smoke, bore round, and hauling athwart her antagonist's stern, was ready again to rake her, when the enemy struck."* By this time the mizzentopmast of the enemy had fallen, the spanker was completely riddled, and the traces, fore-bowlines and fore-topsails were completely cut through, the mizzen being the only after sail. Finding his position hopeless and realizing that he was completely at the mercy of the American frigate, the French captain struck his colors. The enemy proved to be the French frigate *L'Insurgente* (Captain Barreaut), with 36 guns and a crew of 409 men.† During the action *L'Insurgente* lost 70 men (29 killed and 41 wounded) and was much injured, whereas the *Constellation*, though much damaged aloft, had suffered no material injury; and of her crew only two were killed and three were wounded. *L'Insurgente* was then placed in charge of a prize crew, under

* See also Maclay, *History of the Navy*, vol. i., pp. 178, 179. The report of the French captain is on pp. 183-186.

† Cooper says that her armament consisted of 40-12's and she was a little heavier than a regular 32. Maclay, however, from documents in the French archives, shows that *L'Insurgente* carried 26 long 18 pounders on the main deck, 10 long 12 pounders on the quarter-deck and fore-castle, and 4 short 36 pounders, whereas the *Constellation* carried 28 long 24 pounders on the main deck and 20 long 12 pounders on the quarter-deck and fore-castle. Allowing for the usual deficiency in the weight of American metal, the *Constellation* threw 848 pounds to the 791 of her antagonist. (Maclay, *History of the Navy*, vol. i., pp. 179-182.)

John Rodgers and David Porter, and the two ships put in at St. Christopher.*

Governor Desfourneaux demanded the surrender of *L'Insurgente* on the ground that the United States and France were at peace, but Truxtun declined, declaring he was obeying the instructions of his government. On March 14, therefore, Desfourneaux issued a declaration of war against the United States, stating that all American vessels seized should be sent to Guadeloupe for condemnation, or if not liable to condemnation, should be sold and the proceeds paid to the captors or to the owners, according to the orders received from the Directory. Most of the prisoners taken on *L'Insurgente* were confined in a prison ship at St. Christopher or in a jail on shore, awaiting exchange. The damages to the two ships were soon repaired, and in March they started forth on another cruise. After capturing two small privateers, the *Constellation* was compelled to sail homeward, as the term of enlistment of many of the crew had expired. Therefore, in May both vessels sailed for the United States and toward the end of the month anchored in Hampton Roads.†

* Allen, *Our Naval War With France*, pp. 93-103; Winsor, *Narrative and Critical History*, vol. ii., pp. 364-365. A facsimile of the medal presented to Truxtun commemorating this battle will be found in Lossing, *Field-Book of the War of 1812*, p. 105.

† Allen, *Our Naval War With France*, pp. 103-105.

Meanwhile the Navy Department had issued a circular order to govern the conduct of naval officers under the act of February 9, 1799, suspending commercial intercourse. Captain Nicholson, in the *Constitution*, had previously captured a vessel called the *Spencer*, owned by British merchants, which had been taken by the French. Through a misconception of his authority and because he had been instructed not to take unarmed vessels, Nicholson surrendered the *Spencer* to her French captors. To obviate such mistakes in the future, the Navy Department, in the above-mentioned circular, laid down the rule of conduct as follows:

“Our laws direct the capture of all armed vessels sailing under authority or pretence of authority from the French republic. A vessel captured by the cruisers of France must be considered as sailing under the authority of France; and it is scarcely to be supposed that in times like the present, when few vessels sail without arms, a captured vessel in possession of the captors will be so circumstanced as not to come under the description of an armed vessel within the meaning of our laws. To justify a recapture, nothing is necessary but that the vessel be provided with such means of annoyance as will render her dangerous to an unarmed American vessel in pursuit of lawful commerce. If, however, the vessel cannot be considered an armed vessel within the meaning of our laws, you are not to capture her, unless you have probable cause to suspect that the citizens of the United States, or persons resident therein, have some interest in the vessel or cargo. It is always your duty to recapture American property or property of persons resident within the United States, whenever found in possession of the French on the high seas.”

During March and April of 1799 the *Merrimack*, under Captain Moses Brown, cruised on her station and re-

captured the American prize of a French privateer. In June the *Merrimack* captured *La Magicienne*, a French schooner of fourteen guns. She proved to be the *Retaliation*, which the year before had been captured by the *Delaware* under the name *Le Croyable* and had been recaptured by the French. In August the *Merrimack* took the *Bonaparte*, of eight guns, and recaptured two or three prizes. After spending the rest of the year in active cruising, she returned home in December.*

Meanwhile, on June 13, 1798, Congress had passed the non-intercourse act. The resulting interruption of American trade worked hardships on the people of San Domingo. On November 6, 1798, Toussaint informed President Adams that, if the United States would renew commercial intercourse with the island, he would protect the trade by every means in his power. In January of 1799 the Secretary of the Navy wrote to Commodore Barry as follows:

“It is very much the wish of the President that you should take some occasion, before your return, to show yourself with the greater part of your fleet at Cape François to Gen’l. Toussaint, who has a great desire to see some ships of war belonging to America, but it is not intended that you sacrifice any important object to gratify this general, with whom, however, if it should fall in your way, it may be well for you to cultivate a good understanding.”†

On March 4 the Secretary of State wrote to Toussaint prescribing

* Maclay, *Life of Moses Brown*, chaps. xv.-xvi. (1904).

† Griffin, *Commodore John Barry*, p. 376, also pp. 382, 397.

the suppression of privateering as the sole condition on which trade would be resumed with San Domingo, and on April 25 the agent of the Directory in the island issued a decree regulating privateering, which did not, however, go far enough. On May 15, 1799, a British consul, General Maitland, arrived on the island, and on June 13 signed a secret convention with Toussaint to abandon all privateering and to open to British and American trade the ports of Cape François (Cape Haitien) and Port Republicain (Port au Prince). To this treaty the American consul-general, Edward Stevens, was not an open party, though he had great influence in shaping the negotiations. Captain Patrick Fletcher was then sent to San Domingo in the *George Washington*, and on June 25 was instructed to cultivate friendly relations with that island. On June 26 President Adams issued a proclamation discontinuing the prohibitions of the former act on American trade, under the following regulations:

"It shall be lawful for vessels which have departed or may depart from the United States to enter the ports of Cape François and Port Republicain, formerly called Port au Prince, in the said island of St. Domingo, on and after the 1st day of August next.

"No vessel shall be cleared for any other port in St. Domingo than Cape François and Port Republicain. It shall be lawful for vessels which shall enter the said ports of Cape François and Port Republicain after the 31st day of July next to report from thence to any other port in said island between Monte Christi on the north and Petit Coave on the west; provided it be done with the consent of the government of St. Domingo and pursuant to certificates or passports expressing such consent, signed by the consul-general of

the United States or consul residing at the port of departure.

"All vessels sailing in contravention of these regulations will be out of the protection of the United States and be, moreover, liable to capture, seizure and confiscation." *

In the fall the *General Greene* arrived to support Toussaint's efforts to maintain order, and soon after Commodore Silas Talbot arrived in the *Constitution* to take command of the station.† In the summer of 1799 the frigate *Boston* (Captain George Little) arrived and during the remainder of the year co-operated with the rest of the San Domingo squadron. On December 2, in company with the *General Greene*, Little captured a Danish brig, the *Flying Fish*, bound from Jeremie, one of the San Dominican ports, for St. Thomas. In the orders of the Navy Department of March 12, 1799, naval officers were bidden "to be vigilant that vessels or cargoes really American, but covered by Danish or other foreign papers, and bound to or from French ports do not escape you." This order was based upon that clause of the non-intercourse act of February 9, 1799, which provided: "If upon examination it shall appear that such ship or vessel is bound or sailing to any port or place within the territory of the French republic or her dependencies, contrary to the intent of this act, it shall be the duty of the commander of

* Richardson, *Messages and Papers*, vol. i., pp. 288-289.

† See Adams, *United States*, vol. i., chap. xv.; A. S. Mackenzie, *Life of Commodore Oliver Hazard Perry*, vol. i., pp. 41-43.

such public armed vessel to seize any ship or vessel engaged in such illicit commerce." But though the *Flying Fish* was sailing under the Danish flag, her papers appeared so irregular to Captain Little that, suspecting her or her cargo to be American property, he sent her to Boston for adjudication. For this illegal capture the Supreme Court held Little liable for damages.*

During the summer of 1799, the *Portsmouth* (Captain Daniel McNeill), accompanied by the *Scammel*, cruised off the coast of the Dutch Colony of Surinam, occasionally convoying American merchantmen. In July McNeill learned that the French ship the *Hussar*, 20, which had taken several rich prizes, was lying in the Surinam River, awaiting an opportunity to escape. The *Portsmouth* and the *Scammel* blockaded the mouth of the river for a month, at the end of which time the *Hussar* surrendered. In August an English fleet appeared and took possession of Surinam, whereupon the *Hussar* was turned over to them.† In December the *Connecticut* captured the French privateer *L'Italic Conquete*, 12, off the island of Guadeloupe. She later recaptured two American vessels and ran a valuable French ship on shore.‡ On December 20, in the same vicinity, the *Baltimore* captured the French brig *l'Esperance*.

In January of 1800 the schooner the *Experiment*, of which Lieutenant William Maley was commander and David Porter first lieutenant, lay becalmed with a convoy of merchantmen off the north shore of the Island of Gonaive. She was attacked by ten barges, manned with negroes and mulattoes, armed with muskets, sabres and boarding pikes, the negroes numbering in all about 400 or 500.* Several of the barges carried four pounders and swivels. Captain Maley waited until the enemy had come within musket shot and then poured upon them such a galling fire of grape shot that they were compelled to retire. After receiving reinforcements, the enemy separated into three squadrons of four barges each, in which formation another attack was made on the *Experiment*. The guns of the latter were well served, however, and the marines kept up a steady musket fire, so that after a smart action of nearly three hours the enemy were again driven off. Two of the barges were sunk and a large number of the negroes were killed in the others. The tide now separated two of the merchantmen from the rest of the fleet, and, being in too shallow water for the *Experiment* to protect them, they were captured by the natives, after the officers, crews, and passengers had abandoned them because of their in-

* Allen, *Our Naval War With France*, pp. 116-117.

† *Ibid.* pp. 125-126.

‡ *Ibid.* pp. 129-130.

* Cooper (*Naval History*, vol. i., p. 183) says each of the ten barges contained between 30 and 40 men, thus making the total between 300 and 400.

ability to withstand an attack. At last the *Experiment* and the rest of the convoy succeeded in making a port at Leogane, not far from Port Republicain.*

On January 21, 1800, Commodore Truxtun arrived at St. Christopher to take command of the Guadeloupe station. On the 30th he left Guadeloupe with the *Constellation* and the next morning sighted a sail in the southeast. Supposing it to be a British merchantman from "Martinico," Truxtun hoisted English colors "by way of inducement for her to come down and speak;" but, as the stranger did not attempt to alter her course, Truxtun examined her more carefully and discovered her to be a heavy French frigate of 54 guns.† He then hauled down the English colors, cleared the decks for action, and gave chase. "As her metal was in all probability equal to her rate, the only circumstance to equalize this disparity against the *Constellation* was the fact that the stranger was very deep, which was accounted for by the practice of sending valuable articles to France, at that time, in ships of war, as the safest means of transmission."‡ Truxtun spread every inch of sail his ship would bear, coming up with the enemy on the evening of

February 2. It was eight o'clock before the two ships were within speaking distance of each other, and when Truxtun was about to speak and "to demand a surrender of his ship," the enemy opened fire from his stern and quarter guns, directed at the rigging and spars of the *Constellation*. Truxtun had ordered his gunners to withhold their fire until he gave the word. He allowed the enemy to fire without replying until he had reached a favorable position on the weather quarter, when the *Constellation* poured in a broadside that wrought fearful havoc. Then the action began in earnest, continuing until nearly one o'clock in the morning, when the enemy, her fire completely silenced, hauled up and drew out of the combat.*

In his report of February 1, Truxtun says:

"It was at that moment that I considered him as my prize and was trimming in the best manner I could my much shattered sails when I found the mainmast was totally unsupported with rigging, every shroud being shot away, and some of them in many places, so as to render stoppers useless, which in fact could not be applied with effect. I then gave orders for all the men to be sent up from the gun deck to endeavor to secure the mast, in order that we might get alongside of the enemy again as soon as possible; but every effort was in vain, for it went over the side in a few minutes after and carried away with it the topmen, among whom was * * * James Jarvis. * * * As soon as the mainmast went, every effort was made to clear the wreck from the ship as soon as possible, which was effected in an hour, and as her security was then the great object, it being im-

* Allen, *Our Naval War With France*, pp. 139-144, 146-147; Maclay, *History of the Navy*, vol. i., p. 205.

† Regarding the armament of this vessel, see the note in Cooper, *Naval History*, vol. i., p. 174.

‡ *Ibid.*, vol. i., pp. 172-173.

* Maclay, *History of the Navy*, vol. i., pp. 193-195.

possible to pursue the enemy, I immediately bore away for Jamaica for repairs, &c., finding it impracticable to reach a friendly port in any of the islands to windward." *

The French ship proved to be the frigate *La Vengeance*, and, according to the report of her commander, her rigging was so damaged that she was compelled "to run before the wind to Curaçoa, working to bend new sails on the stumps of the masts which remained, by means of which [she was] enabled to reach port on the 18th of the same month." † According to another report *La Vengeance* had nothing left standing "but her bowsprit, fore and mizzen mast; her fore- and mizzen shrouds, rattlings, &c., being cut up so that you could scarce see any of them for stoppers. In short there appears no place that has escaped a shot; her starboard side has been hulled, and it is said she had 140 killed and wounded, and when she parted she had eight feet [of] water in her hold." Of the 400 men in the crew of the *La Vengeance*, 50 were killed and 110 wounded. On the *Constellation*, the casualties were 14 killed and 25 wounded, of whom 11 subsequently died. ‡ The news of this victory was greeted with delight throughout the country. By a vote of 87

to 4 (John Randolph being one of the four) Congress rewarded Truxton with a gold medal and resolved "that the conduct of James Jarvis, a midshipman in said frigate, who gloriously preferred certain death to an abandonment of his post, is deserving of the highest praise, and that the loss of so promising an officer is a subject of national regret." *

From January to March of 1800 the *Adams* made a successful cruise, recapturing the American schooner the *Isabella* and taking the French corvette *Le Berceau* and three French privateers—the *Le Gembeau*, the *L'Heureuse*, and the *General Massena*. Early in the year the *Boston* took the *Deux Anges*, 20, subsequently captured a number of small vessels, and in June captured two French schooners off Jacmel. † In May Commodore Talbot sent a party of men under Isaac Hull into the Spanish harbor of Porto Plata, San Domingo, to capture a French frigate (formerly the English ship the *Sandwich*). Hull performed the task in a splendid manner, but, unfortunately, the capture was illegal, violating the neutrality of a Spanish port, and the prize had to be surrendered after it reached New York. ‡ On August 3 the

* *American State Papers, Naval Affairs*, vol. i., p. 73; *Annals of Congress*, 6th Congress, 1st session App., pp. 1423-1427.

† Maclay, *History of the Navy*, vol. i., pp. 196-198.

‡ See Cooper, *Naval History*, vol. i., pp. 173-174; Allen, *Our Naval War With France*, pp. 162-177; Winsor, *Narrative and Critical History*, vol. vii., pp. 365-366.

* See Benton, *Abridgment of Debates*, vol. ii., pp. 469-472. See also McMaster, vol. ii., pp. 475-476.

† Allen, *Our Naval War With France*, pp. 177-180.

‡ Cooper, *Naval History*, vol. i., pp. 174-176; Allen, pp. 182-186; Maclay, *History of the Navy*, vol. i., pp. 198-200.

Trumbull (Captain David Jewett) captured the French schooner *La Vengeance*, 8, off Jeremie. The prize was sent to New London and condemned, but was surrendered soon afterward on the ground that she was a national vessel according to the treaty concluded with France.* On July 26 the *Ganges* captured a French privateer off Matanzas, Cuba.

The Guadeloupe station had been a scene of much activity. The *Baltimore*, the *John Adams*, and other vessels took a number of privateers and succeeded also in releasing many captured American vessels. On June 17 the *Enterprise*, 12 (Lieutenant John Shaw), captured the privateer *Le Cynge* (or *Le Seine*) of 4 guns and 54 men. Soon afterward the *Enterprise* captured *Le Citoyenne*, 6, the *L'Aigle*, 10 and *Le Flandreau*, 12† and later took three other vessels besides making a number of recaptures. On this cruise, according to Shaw's report, the *Enterprise* took 13 vessels, made 300 prisoners, killed and wounded 61 men, and captured 42 pieces of artillery and 180 stands of muskets.‡ Shortly afterwards, under a new commander, the *Enterprise* fell in with a French vessel of 12 guns, but, after doing

considerable damage was compelled to leave her, as they were near the island of St. Bartholomew, with whose vicinity the *Enterprise* was unacquainted. On December 24 the *Enterprise* captured the privateer *L'Armour de la Patrie*, 6. The *Experiment*, under Charles Stewart, fell in with and captured the privateer *Deux Amis*, 8, and on October 1 captured the three masted schooner *La Diane* with a valuable cargo (and armed with 14 9-pound carronades), under convoy of a brig of 18 9-pounders. The brig escaped.* The *Experiment* also recaptured a number of American vessels.

On October 12, 1800, when about 600 miles northeast of Guadeloupe, the frigate *Boston* sighted a ship and a schooner. The *Boston* started in pursuit and at about 3.30 o'clock came up with the ship, which then hoisted French colors. At 3.45, when the Frenchman refused to strike his flag, the action began, lasting until 5.24. The sails and rigging of both ships were so shattered that it was impossible to work either of them, and they drifted apart. The *Boston* hastily repaired her damages, and at 8.30 o'clock the action was resumed, lasting until 10.20, when the French ship struck her colors. Her fore and main topmasts had been shot away, and went over the side soon after striking. She proved to be the *Le Berceau*, 46

* Allen, p. 191. Some data respecting the *Trumbull* will be found in the *Magazine of American History* (March, 1885), p. 256.

† For details of these encounters, see Cooper, *Naval History*, vol. i., pp. 177-181; Maclay, *History of the Navy*, vol. i., pp. 200-204.

‡ Allen, *Our Naval War With France*, pp. 200-203.

* Maclay, *History of the Navy*, vol. i., pp. 205-206; Allen, pp. 205-206; Cooper, *Naval History*, vol. i., pp. 183-184.

(mounting 24), and during the action had lost 34 killed and 18 wounded. The loss on the *Boston* was 7 killed and 8 wounded.* The prize was taken to Boston harbor, condemned, and sold to the United States on January 15, but, under the treaty with France, had to be given up. She sailed for home on September 26, 1801.†

During this war there were, strictly speaking, no American privateers, but most merchantmen were armed for defense and a large number were commissioned under the act of July 9, 1798. Though the French privateers were more heavily armed, the American vessels attacked them without hesitancy and generally emerged victorious. On July 5, 1798, the *Eliza*, of Charleston, was compelled to surrender to a French privateer, after an action lasting an hour and a quarter. On March 8, 1799, the *Charming Betsy*, of Baltimore, fell in with the French privateer *L'Revenge* and a warm action ensued. The *Betsy* sustained considerable damage in her rigging, spars and sails, both topmasts also being shot away. Her captain and three men were wounded.

L'Revenge suffered considerable damage, having had 10 men killed and wounded (four of whom were thrown overboard on her arrival at Curaçoa).* On March 8 the *Molly*, of Philadelphia, was fired upon by a French ship and, although she compelled the French ship to strike her colors, it does not appear that she took possession of her prize. In June of 1799 the brig the *Genius*, of New York, captured the French ship *Columbus* and took her to Tortola, where she was condemned by a British court of admiralty. On July 10 the *Planter*, 18, was attacked by a French privateer of 22 guns, but finally compelled the enemy to retreat.† The *Mount Vernon*, 20 guns and 53 men, fell in with a fleet of French merchantmen under convoy and was attacked by a French frigate. The American vessel poured in several broadsides and was rapidly gaining the advantage, when the French vessel fled. In July the same vessel met another French ship and compelled her to strike, but did not take her, because they were too near European waters, from which aid might arrive at any moment.‡ On October 2, 1799, when about 40 miles north of Havana, the private armed vessel, the *Chesapeake*, 20, was attacked by a French privateer of 12 or 14 guns and a desperate encounter followed, lasting three-quarters of

* See, however, Maclay, *History of the Navy*, vol. i., pp. 209-212, and Cooper (*Naval History*, vol. i., p. 181), who give different statistics. Maclay gives the loss on the *Boston* as 4 killed and 11 wounded, and on the *Berceau* as 4 killed and 17 wounded.

† Allen, *Our Naval War With France*, pp. 210-216. See also the data regarding this battle in *Proceedings of the Massachusetts Historical Society*, vol. xx., p. 270. The correspondence relating to her release will be found in *American State Papers, Foreign Relations*, vol. ii., pp. 428-439.

* Allen, *Our Naval War With France*, pp. 226-227.

† *Ibid*, pp. 228-229.

‡ *Ibid*, pp. 229-232.

an hour. The quarter-deck of the enemy then blew up and she went down stern foremost, taking all her men with her.* On November 2, 1799, the *Perseverance*, 22, was attacked by a French frigate of 28 guns. The French gunners aimed so as to cut up the rigging of the American vessel, and were so successful that early in the action the *Perseverance* became unmanageable. At the second and third broadsides most of the carronades in the *Perseverance* were upset and on that side but seven remained with which to fight. Nevertheless, the Americans maintained so hot a fire that, after an action of one hour and ten minutes, the French ship withdrew. So complete a wreck was the *Perseverance* that she could not follow. Having repaired her damages, the French vessel renewed the attack; but, after an hour and a quarter of severe fighting, crowded on sail and fled. The *Perseverance*, with much difficulty, reached Libson.†

In March of 1800 the *Nancy*, 10, of Boston, was attacked by a French schooner of 16 guns. Having disabled a greater part of the sails and rigging of the American vessel, the French ship tried to board, but was beaten off. Before she left, however, she put 3,000 shot of different kinds through the hull, sails and rigging of the American boat. The topsail, topgallant balyards, gib stay, topping lift

and braces were all shot away; the sails were overboard and the ship on fire in three or four different places.* Several American vessels, such as the *Industry* and the *Louisa*, were attacked by two or more vessels simultaneously, but they invariably beat off their antagonists.† Another action was that which took place between the American privateer *Herald* (Captain Nathaniel Silsbee) and the French privateer *La Gloire*, 22 9-pounders. On November 1, 1800, the *Herald*, with four merchantment, left Calcutta. Three days later she was attacked by the *La Gloire*, which had just disabled the East Indian Company's packet ship the *Cornwallis*, 18. Silsbee waited until the French ship was fairly within gun shot, and then gave her a broadside, the other ships also firing the few guns they carried. *La Gloire* was headed directly for the *Herald*, but when the smoke of the broadside had cleared away, she had turned about and was beating a hasty retreat — so effective was the fire of the American ship. Thenceforth she gave the *Herald* a wide berth.‡

It is estimated that during the war the navy took about 85 prizes from the French, not counting recaptured vessels and small boats. Of these, about a dozen surrendered because they were illegally captured, and two, being national vessels, were after-

* Allen, pp. 237-238.

* Allen, *Our Naval War with France*, pp. 233-234.

† *Ibid*, pp. 235-236.

† *Ibid*, pp. 239-242; E. S. Maclay, *A History of American Privateers*, pp. 219-220; Maclay, *History of the Navy*, vol. i., pp. 207-208.

‡ Maclay, *American Privateers*, pp. 220-222.

ward given up under the treaty. The only national vessel taken by the French was the *Retaliation*, which had previously been captured from the French and was again taken from them.* The value of the prizes condemned, about 70 in number, was nearly \$700,000.†

CHAPTER XVII.

1798-1801.

THE END OF THE QUASI-WAR WITH FRANCE.

The Directory seeking peace — Mission of George Logan — Attitude of Adams toward the peace mission — Hamilton and the Miranda enterprise — Talleyrand's willingness to receive new mission — Belligerent character of the President's proposed speech to Congress — Pickering's report on Gerry's negotiations — Submission to Congress of the French decree of October 29, 1798 — Suspension of commercial intercourse — Nomination by Adams of new envoys to France — Federalist indignation — Quarrel with the Cabinet — Adams' defence — The treaty of Morfontaine signed by the envoys — Exchange of ratifications — Results of the dispute — Arbitration with Great Britain — Disposition of the claims against France.

While these events were taking place, a peaceful solution of the dispute was being effected gradually. Long before a regiment had been raised, word was received that France was not likely to go to war. In the autumn of 1798 Gerry arrived, bringing assurances that the French ministry had no desire for war; but as his actions in France had intended to discredit his opinions, his words carried no weight. He had hoped to be vindicated by the publication of his report to Adams, but, though the Republicans sarcastically called for its publication, Pickering withheld it for several months.* Another indication of the mood of the French was the

mission of Dr. George Logan, a Philadelphia Quaker, who, on his own ac-

* Maclay, *History of the Navy*, vol. i., p. 213.

† Allen, p. 222. In addition to the works previously mentioned, see Nathan Sargent, *The Quasi-War with France*, in *The United Service* (July, 1883); Horatio D. Smith, *The United States Revenue Cutter Service*, in *The United Service* (November, 1889, to April, 1890); Charles O. Paullin, *Early Naval Administration Under the Constitution*, in *Proceedings of the United States Naval Institute* (September, 1906); Charles T. Harbeck, *A Contribution to the Bibliography of the History of the United States Navy* (1906); Charles W. Goldsborough, *United States Naval Chronicle* (Washington, 1824); A. T. Mahan, *The Influence of Sea Power upon the French Revolution and Empire, 1793-1812* (Boston, 1894); George F. Emmons, *Statistical History of the Navy of the United States* (Washington, 1853); Ira N. Hollis, *The Frigate Constitution* (Boston, 1900); George H. Preble, *First Cruise of the United States Frigate Essex* (Salem, 1870); *Autobiography of Commodore Charles Morris* (Boston, 1880); Articles by J. F. Cooper on the frigate *Constitution* in *Putnam's Monthly* (May and June, 1853); the extracts from the log of the frigate *Boston* in *Proceedings of the Massachusetts Historical Society* (June, 1883); *Biographical Sketch and Services of Commodore Charles Stewart* (Phila-

* See Jefferson's letter of January 16, 1799, to Madison, in Ford's ed. of *Jefferson's Writings*, vol. vii., pp. 316-317; John Adams, *Works*, vol. viii., pp. 616-617 and vol. ix., p. 7. See also Madison's reply to Jefferson, in *Madison's Works* (Congress ed.), vol. ii., p. 151.

count, undertook to secure a definite assurance from the French government that it was inclined to peace. He succeeded in securing the release of some American prisoners taken by privateers, and in an interview with Talleyrand, endeavored to show how disastrous to the French interests in the United States had been the course adopted by the ministry. He returned to the United States, convinced that his journey had not been in vain; but his mission was regarded as a partisan interference in foreign affairs and caused much bitter comment, though undoubtedly the affair was made to appear much worse than it actually was. Logan called upon Washington to relate his experience, but was received very coldly, Washington remarking that it was peculiar that an unaccredited stranger could secure more information regarding the intentions of the French ministry than three accredited ministers of the United States. He said also that, if France really desired peace, she should prevent the seizure of American ships by French privateers. Logan afterward had an interview with

Adams, by whom he was received much more graciously.*

The Directory had now changed its attitude. It no longer demanded satisfaction for the language contained in Adams' message, concerning which complaints had been made. No desire was expressed that the United States break Jay's treaty; American seamen were released; the further capture of American vessels was prohibited; and in August the government indicated its readiness to receive a new American minister, provided his political opinions were acceptable to the ministry.

When Congress met in December of 1798 the Union was in great danger. The Republicans believed that the Federalists were bent on plunging the country into war, either foreign or domestic, as is witnessed by numerous letters written by Republicans. Gallatin wrote to his wife that the Federalists "avow a design of keeping up a standing army for domestic purposes" and that Hamilton had declared "that a standing army was necessary."† Undoubtedly the Federalists themselves believed that the crisis was at hand," that the question between the friends of order and government and the sedition-mongers [and] traitors would have to be settled by an appeal to arms."‡ And the

delphia, 1838); *The Yankee Tar; An Authentic Narrative of the Voyages and Hardships of John Hoase* (Northampton, 1840); Martin I. J. Griffin, *Commodore John Barry* (Philadelphia, 1903); Henry T. Tuckerman, *Life of Silas Talbot* (New York, 1850); E. S. Maclay, *Moses Brown, Captain U. S. N.* (New York, 1904); Alexander S. Mackenzie, *Life of Commodore Oliver Hazard Perry* (New York, 1843) and *Life of Stephen Decatur* (Boston, 1846); Thomas Harris, *Life and Services of Commodore William Bainbridge, U. S. N.* (Philadelphia, 1837); David D. Porter, *Memoir of Commodore David Porter* (Albany, 1875).

* McMaster, vol. ii., pp. 409-410, 415-416. See also Ford's ed. of *Jefferson's Writings*, vol. vii., pp. 273-275, 326 *et seq.*; Ford's ed. of *Washington's Writings*, vol. xiv., p. 130.

† Adams, *Life of Gallatin*, p. 223.

‡ Hamilton's *Works*, vol. viii., p. 514.

temper of the Federalists was such that, if war with France had broken out, the treatment of the Republican party might have resulted in civil war. Fortunately for the country, Adams was determined that there should be no war either with England or France. He was neither blinded by the anti-French fanaticism nor wholly swayed by the Federalists' enthusiasm for England.

The day after his inauguration Adams called on Jefferson to consult regarding a mission to France, even inquiring as to whether Jefferson would accept an appointment as minister to that country.* He did not accept the creed of most of the Federalists that Hamilton was the oracle to be consulted on all occasions, and that his opinions should always be given special consideration. This was probably due to the fact that during the first Presidential election Hamilton had endeavored by all means in his power to diminish the vote given to Adams. Again, in the election which resulted in raising Adams to the Presidency, Hamilton had put forth his utmost endeavors to swing the vote to Pinckney, urging all the New England electors to vote for the latter, in the hope that, with the Southerners known to favor Pinckney, the latter would receive enough votes to defeat Adams. Such conduct naturally made Adams highly in-

dignant, for he was far from being a modest man. Writing to Henry Knox, March 30, 1797, he said:

"To see such a character as Jefferson, and much more such an unknown being as Pinckney, brought over my head, and trampling on the bellies of hundreds of other men, infinitely his superiors in talents, services and reputation, filled me with apprehensions for the safety of us all. It demonstrated to me that if the project succeeded, our constitution could not have lasted four years. We should have been set afloat and landed, the Lord knows where. That must be a sordid people indeed, a people destitute of a sense of honor, equity and character, that could submit to be governed, and see hundreds of its most meritorious public men governed, by a Pinckney under an elective government." *

Adams, as has been related, became involved also in a dispute with Washington and Hamilton as to the latter's position in the army. Finally, when Washington threatened to resign if Adams did not appoint Hamilton to the second highest position, Adams yielded. The effect of this was to make him distrust his cabinet, to disincline him to a policy which might enhance Hamilton's reputation, and to weaken his belief in the probability of war. Writing to McHenry, October 22, he says: "One thing I know, that regiments are costly everywhere, and more so in this country than in any other under the sun; and if this nation sees a great army to maintain without an enemy to fight, there may arise an enthusiasm that seems little to be foreseen. At present there is no

* Morse, *John Adams*, p. 277.

* John Adams, *Works*, vol. viii., p. 535; Morse, *John Adams*, p. 263.

more prospect of seeing a French army here than in Heaven.” *

But if Adams could not perceive a prospective enemy, it was not so with Hamilton, who was even then intriguing to embroil the United States in a war in a different part of the globe. By a treaty concluded in 1796, France and Spain had lately guaranteed each other's dominions in the Old and the New World. A plot was now discovered (similar to the plan of invading Louisiana for which Blount had been impeached) in which a knot of Federalists, with the Secretary of State at the head and with King in London as go-between, hoped to bring the United States into an alliance with Great Britain in an attempt to sever the Spanish colonies from their parent government. With this object in view and as part of the general scheme, a joint expedition was to be undertaken against the Spanish American colonies under the double protection of the United States and Great Britain, the former furnishing the army and the latter the navy. Don Francisco Antonio Gabriel Miranda, a South American revolutionist, who to this end had secretly worked upon the British ministry, hoped to utilize the disaffection in the Spanish colonies to promote the objects of a joint expedition and, incidentally, those of his private ambitions. In case of success, Great Britain would secure the West Indies as a market for her manufactures, to-

gether with rights across the Isthmus, and the United States would become possessed of the Floridas and all of Spanish Louisiana east of the Mississippi.

How many of the Federalists were in the confidence of this vast international project is not certainly known. Certain it is that Harper had broached the idea of conquering Mexico as early as 1797 and that Rufus King sympathized with Miranda's schemes. The correspondence between Pickering and King shows that the two were well acquainted with the details of the plan.* Almost immediately after the publication of the X. Y. Z. dispatches, Pickering sounded Hamilton upon the feasibility of capturing Louisiana; and King's letters, written after the dismissal of the two American envoys (Pinckney and Marshall), threw additional light on the subject. Harrison Gray Otis, one of the leading Federalists in the House, had evidently been initiated into the confidential scheme, for on January 26, 1799, Hamilton wrote to him as follows:

“As it is every moment possible that the project of taking possession of the Floridas and Louisiana, long since attributed to France, may be attempted to be put in execution, it is very important that the executive should be clothed with power to meet and defeat so dangerous an enterprise. Indeed, if it is the policy of France to leave us in a state of semi-hostility, it is preferable to terminate it, and by taking possession of these countries for ourselves, to obviate the mischief of their falling into the hands of an active foreign power, and, at the same time,

* John Adams, *Works*, vol. vii., p. 613.

* *Life and Correspondence of Rufus King*, vol. ii., pp. 284, 305.

secure to the United States the advantage to keep the key to the western country. I have long been in the habit of considering the acquisition of those countries as essential of the permanency of the Union, which I consider as very important to the welfare of the whole. If universal empire is still to be the pursuit of France, what can tend to defeat the purpose better than to detach South America from Spain, which is the only channel through which the riches of Mexico and Peru are conveyed to France? The Executive ought to be put in a situation to embrace favorable conjunctures for affecting that separation. It is to be regretted that the preparation of an adequate military force does not advance more rapidly. There is some sad nonsense on this subject in some good heads. The reveries of some of the friends of the government are more injurious to it than the attack of its declared enemies." *

Having become a party to the project, Hamilton, evidently dazzled with the idea that he might become the liberator of South America, threw himself into it with zeal and energy. Between April and August of 1798 he received several letters from Miranda himself, the contents of which he concealed from Washington. On August 22, however, he wrote a letter to Miranda which was transmitted to King at London, with the request that he use his discretion in delivering or suppressing it.† Hamilton said that his sentiments were wholly in accord with Miranda's schemes; that he hoped "the enterprise in question might be undertaken"; that "he should be glad that the principal agency was in the United States, they to furnish the whole land force if necessary"; that "the command in this case would only fall upon him"

and that while the country was not yet ready for the undertaking he had suggested "certain preliminary steps to prepare the way consistently with national character and justice." King delivered this letter to Miranda, who shortly after wrote to Hamilton saying that England would be ready to coöperate when the United States was prepared; "all is ready for your President to give the word," he wrote. Without the President's sanction, however, the Miranda enterprise must have proved impracticable sooner or later, but Pickering and Hamilton evidently hoped they could gradually draw Washington and Adams into the scheme. Miranda had foolishly written to the President about it. While Adams paid little heed to the scheme, it was evident that from this time his war-fever cooled considerably; and the knowledge that Hamilton was endeavoring to embroil the country in a war with Spain which could not but involve France, probably had much to do with his desire to hasten the resumption of diplomatic intercourse with France and the settlement of all existing disputes.* Again, it is easy to believe that Hamilton's dreams of expansion may have exerted a vast influence on the attitude of the Federalist party toward the measures then in Congress.

In October of 1798 Adams received

* Lodge's ed. of *Hamilton's Works*, vol. viii., pp. 523-524.

† *Ibid.*, vol. viii., pp. 505-506.

* Schouler, *United States*, vol. i., pp. 423-425; Briggs, *History of Don F. Miranda's Attempt to Effect a Revolution in South America*.

information through William Vans Murray, minister at The Hague, that Talleyrand was willing to resume regular intercourse.* Murray said that Talleyrand had given assurance that a minister would be received if sent,† and Adams wrote to Pickering to get an opinion of the various Cabinet members as to the wisdom of making further proposals for negotiation.‡ In this connection, he recalled the verbal reservations of his message of the previous June, named several persons he thought suitable for the new embassy, and suggested that in

his next message, without actually receding from the firm position he had already taken, he would keep the channel of negotiations open. To this communication Pickering made no direct reply, but summoned a conclave of the Cabinet members and other Federalists, including Hamilton, at which it was determined to coerce the President into a warlike attitude in his opening message, so that he would have no peace-loophole for a retreat. With Hamilton's aid, Wolcott prepared a draft of a message embodying the Cabinet's view on the French question, which set forth that to send another embassy to France would be an act of humiliation to which the United States ought not to submit—save under some extreme necessity, which did not then exist.* But Adams realized the dangers to which a young government like the United States would be liable in case of war and believed that peace with honor was to be preferred to all other conditions. Therefore, when the next session of Congress convened, Adams took matters into his own hands. Congress should have assembled on December 3, 1798, but there was not a sufficient number of members present on that day, and it was not before the 8th that Adams delivered his speech.† In preparing his speech the President had followed the advice of his Cabinet,

* Schouler, *United States*, vol. i., p. 429.

† John Adams, *Works*, vol. i., pp. 541, 542.

‡ As early as October 20, 1798, Adams wrote to Pickering asking his advice as to the appointment of a new minister. In a note, Mr. C. F. Adams says: "This letter is of great importance, as showing not only the state of Mr. Adams's mind at this time, upon the most disputed question during his administration, but the early knowledge of it on the part of his cabinet officers, who yet complained of his sudden determination in the nomination of Mr. Murray, four months later. It now seems to explain the cause of the measures of counteraction to which they resorted. Instead of sending any answer, or entering into a discussion of the questions involved, a consultation was had, denominated by Mr. Jefferson 'a military conclave,' from the presence of some of the general officers then assembled at Philadelphia, and especially of Mr. Hamilton, at which a draught of a message was prepared, obviously designed to preclude the President's action upon the suggestion contained herein [in his letter to Pickering]. This draught was probably made by Mr. Wolcott under the dictation of Mr. Hamilton, and it is conceded by Mr. Gibbs to have been intended to 'leave no loophole for retreat.' Yet Mr. Hamilton must at this time have had in his hands Rufus King's private letter to him, from London, assuring him 'that there would be no war,' and that France would propose to renew negotiations."—John Adams, *Works*, vol. viii., p. 610. See also Morse, *John Adams*, p. 293 *et seq.*

* Schouler, *United States*, vol. i., pp. 429–430.

† Richardson, *Messages and Papers*, vol. i., pp. 271–275; John Adams, *Works*, vol. ix., pp. 128–134.

save in one particular. As stated above, the Cabinet members thought that to send another minister, in the light of the conduct of France, would be a humiliation to which the United States ought not to submit, and that the first overtures for peace should be made by France. Adams, however, had a quick and stubborn temper, and said that if France should send a minister one day, he would kick him out the next. But the arguments of the Cabinet had weight, and after his temper had cooled, he rushed to the other extreme and modified his speech so as to require "more determinate assurances that another minister would be received," thus affording to himself an opportunity, if he saw fit, to institute a new mission to France. He even professed himself willing to send a minister to France, but the Cabinet thought this was going a little too far. Nevertheless, over the protests of Wolcott, Pickering, and McHenry, Adams delivered the speech.*

He said that nothing was "discoverable in the conduct of France which ought to change our measures of defence" and that "to send another minister without more determinate assurances that he would be received would be an act of humiliation to which the United States ought not to submit. It must therefore be left with France (if she is indeed desirous of

accommodation) to take the requisite steps. * * * But considering the late manifestations of her policy toward foreign nations, I deem it a duty deliberately and solemnly to declare my opinion that whether we negotiate with her or not, vigorous preparations for war will be alike indispensable. These alone will give to us an equal treaty and insure its observance."† In its answer, the Senate severely reprobated the course pursued by the Directory, in making use of "individuals without public character or authority" as the medium of negotiation, instead of "the constitutional and authorized agents of the government,"‡ here referring to the mission of Dr. Logan. Adams replied on December 12 that he had "seen no real evidence of any change of system or disposition in the French republic toward the United States."‡

On January 18, 1799, the Secretary of State submitted a report enclosing the correspondence and dispatches relating to the French mission.¶ In this report Gerry's conduct was severely censured and the duplicity and aggressions of France were indicated in

* Richardson, *Messages and Papers*, vol. i., p. 273. See also *Annals of Congress*, 5th Congress, 3d session, vol. iii., pp. 2420-2424; Benton, *Abridgment of Debates*, vol. ii., pp. 327-328.

† Richardson, *Messages and Papers*, vol. i., p. 270.

‡ *Ibid.*, vol. i., p. 277.

¶ For which see *American State Papers, Foreign Relations*, vol. ii., pp. 229-238; *Annals of Congress*, 5th Congress, 3d session, vol. iii., pp. 3531-3558.

* McMaster, vol. ii., p. 428. See also John Adams, *Works*, vol. i., pp. 533-538. See another version in Morse, *John Adams*, pp. 294-298.

very plain terms. This report said, in part:

"The sensation which these details irresistibly excite is that of astonishment at the unparalleled effrontery of M. Talleyrand in demanding of Mr. Gerry the names of X., Y., and Z.; after Y. had accompanied him on a visit to the minister, with whom the conversation detailed in the printed dispatches then passed, and who then assured Mr. Gerry, 'that the information M. Y. had given him was just, and might always be relied on'; after Z. had in the first instance introduced Mr. Gerry to the minister, and served as their mutual interpreter, and when the conversation between them had also been stated in dispatches; and after X., Y., and Z. had all dined together with Mr. Gerry at M. Talleyrand's table, on rising from which, X. and Y. renewed the propositions about the MONEY!* The very circumstances of M. Talleyrand being continued in office, after the account of these intrigues had been published to the world, is a decisive proof that they were commenced and carried on with the privacy and by the secret orders of the Directory. It was to accomplish the object of these intrigues that the American envoys were kept at Paris unreceived, six months after their credentials had been laid before the Directory; and it was only because they were superior to these intrigues, and that no hopes remained of wheedling or terrifying them into a compliance, that two of them were then sent away, and with marks of insult and contempt."†

As a matter of fact, Pickering was laboring, not to let the Gerry correspondence tell its own story, but to make from it, at discretion, a resumé of the French mission, spiced here and there with his own piquant condiments in order to heighten the war-fever, which might have been alle-

viated if the documents themselves had been produced. From Pickering's report, Adams struck out much of the most offensive matter, particularly that which reflected upon Gerry, saying "I am not going to send to Congress a philippic against Mr. Gerry." But what remained was sufficiently irritating in tone and text to give the administration a warlike aspect.* To add fuel to the flame, the President, on January 28, 1799, sent to Congress† an edict of the French Directory (dated October 29, 1798, and received through King) which declared that neutrals taken in the ships of their enemies would be treated as pirates.‡ The Senate immediately began to devise means of retaliation, and a law with that object in view was enacted, even though in the course of the debates the President received word that the edict had already been suspended. This fact, for some reason, was not communicated to Congress, and the act was suffered to pass.||

Meanwhile Hamilton was pressing Congress so insistently to recruit and

* The Secretary betrayed his vanity for pungent composition and his disregard for official decorum by printing and sending to the leading Federalists copies of those parts of his report which the President had required him to omit.

† Richardson, *Messages and Papers*, vol. i., pp. 281-282.

‡ For text, see *American State Papers, Foreign Relations*, vol. ii., p. 238.

|| Schouler, *United States*, vol. i., p. 440. This was the act of February 9, 1799, "further to suspend the commercial intercourse between the United States and France and the dependencies thereof."—*Statutes-at-Large* (Peters), vol. i., p. 613.

* Gerry says that this related to the loan only. See his letters to Adams, in John Adams, *Works*, vol. viii., p. 612.

† *American State Papers, Foreign Relations*, vol. ii., p. 230. See a note containing long extracts from the documents on this subject, in Benton, *Abridgment of Debates*, vol. i., pp. 389-398.

maintain the military establishment that Sedgwick determined to ascertain the President's views regarding the army bill then before the Senate. "If you must have an army," said Adams, "I will give it to you; but, remember, it will make the government more unpopular than all the other acts. The people have submitted with more patience than any other people ever did to the burden of taxes, which has been liberally laid on, but their patience will not last always." Surprised as he was at this, Sedgwick was still more astonished when the President asked him what additional authority Congress now proposed to give the commander-in-chief. "None," Sedgwick answered; "all that has been proposed is to give him a new title—that of general." "What!" exclaimed Adams, "are you going to appoint him general over the President? I have not been so blind but I have seen a combined effort among those who call themselves the friends of the government, to annihilate the essential powers given to the President. This, sir, my understanding has perceived and my heart felt." Sedgwick then asked him on what he based his assertions, and Adams replied: "If you have not seen it, I cannot properly go into details."

Meanwhile, as we have noticed, Talleyrand had given his assurance that an American minister would be received. It will be remembered also that in his message in June of 1798,

Adams had said: "I will never send another minister to France, without assurances that he will be received, respected, and honored as a representative of a great, free, powerful, and independent nation;" and again, on December 12, he declared that he had "seen no real evidence of any change of system or disposition in the French republic toward the United States."

On September 28, 1798, Talleyrand, through Pichon, the French chargé, sent an informal message to Murray at The Hague, in which he said: "You were right to assert that whatever plenipotentiary the Government of the United States might send to France to put an end to the existing difference between the two countries, would be undoubtedly received with the respect due to the representative of a free, independent, and powerful nation."* Joel Barlow also had written a long letter to Washington, which the latter sent to Adams, conveying the idea that France was really desirous of peace. In transmitting this letter to Adams, Washington said:

"Should you be of opinion that this letter is calculated to bring on negotiations upon open, fair, and honorable grounds, and to merit a reply, and will instruct me as to the tenor of it, I shall, with pleasure and alacrity, obey your orders; more especially if there is reason to believe that it would become a means, however

* See Talleyrand's letter to Pichon, in *American State Papers, Foreign Relations*, vol. ii., pp. 239-240; *Annals of Congress*, 6th Congress, App., pp. 1087-1091; Richardson, *Messages and Papers*, vol. i., p. 283. See also Adams' letter to Washington, February 19, 1799, and Murray's reply, in John Adams, *Works*, vol. viii., pp. 624-625, 677-691.

small, of restoring peace and tranquillity to the United States upon just, honorable, and dignified terms, which I am persuaded is the ardent desire of all the friends of this rising empire."

Adams seems to have been restive under the restrictions of party policy, and was especially sensitive at the interference of Hamilton in matters of public concern.* On the other hand, he was to a considerable extent influenced by Gerry's representations and had, many believed, some expectations of conciliating the Republicans with reference to a second election to the presidency.† But he suddenly adopted the course which caused consternation in the ranks of the Federalists and clearly presaged the downfall of his party and the rise of the Republicans to power. Without any more definite assurances than those alluded to‡ that a new embassy would be more cordially received than the first one, Adams decided to take Tal-

leyrand at his word. "His convictions of duty were never more clear. War impended over the country, and a chance was yet left to avert it. He was bound not to permit that chance, however slight, to escape. He meditated the means in his own secret heart. There was but one way. He ought to send to the Senate a communication nominating a minister to go to France, and the person must be the individual through whom the overtures for accommodation had been submitted, William Vans Murray, now minister at The Hague."**

On February 18, 1799, without even a hint to his Cabinet of his intentions—to say nothing of asking its advice—the President sent to the Senate the nomination of William Vans Murray, to be minister plenipotentiary to the French republic.† "Had a thunderbolt fallen upon that body, it could not have produced more amazement. Warlike preparations, pursuant to the recommendations of the speech, had been adopted; up to that very hour, every measure had been in reference to prospective war, and now the action of the political engine was suddenly reversed, at the moment when its every joint was straining to the utmost."‡

The indignation of the Hamiltonian

* Lodge, *Alexander Hamilton*, p. 198 *et seq.*

† This he denies, however, in a letter to his wife, *Works*, vol. i., p. 544. Morse states the case somewhat differently. He says that even the semi-official offer from France to negotiate placed upon Adams a serious responsibility. If, merely from temper, he should hold aloof from this advance and war should ensue, he might feel that he had precipitated the strife from no better motive than an overstrained sense of pride. Moreover, when the facts became known, the Democrats (Republicans) would be greatly strengthened by being able to say that French overtures had been rejected. (Morse, *John Adams*, p. 299).

‡ Adams himself, however, says that no words "could have expressed in a more solemn, a more explicit, or a more decided manner, assurances of all that I had demanded as conditions of negotiations. * * * If ever there was a regular diplomatic communication this was one."—*Works*, vol. ix., p. 245.

* John Adams, *Works*, vol. i., p. 543.

† Richardson, *Messages and Papers*, vol. i., pp. 282-283; John Adams, *Works*, vol. ix., pp. 161-162; *Annals of Congress*, 5th Congress, 3d session, vol. iii., pp. 3558-3560.

‡ Gibbs, *Administrations of Washington and Adams*, vol. ii., p. 189; McMaster, vol. ii., p. 429.

Federalists knew no bounds. They had accepted and had favored a declaration of war, but when they saw the President throw the weight of his influence on the side of peace, they felt outraged beyond measure. Cabot said: "Surprise, indignation, grief and disgust followed each other in quick succession in the heart of every true friend of our country."* Sedgwick said: "Had the foulest heart and the ablest head in the world been permitted to select the most embarrassing and ruinous measures, it would have been precisely the one which has been adopted. In the dilemma to which we are reduced, whether we approve or reject the nomination, evils only, certain, great, but in extent incalculable, present themselves."† Pickering said: "We have all been shocked and grieved at the nomination of a minister to negotiate with France. I beg you to believe that it is wholly his [Adams'] own act, without any participation or communication with any of us." Hamilton said that the message would astonish him if anything could.‡ Writing to Madison on February 19, Jefferson gives the following account of the matter:

"The event of events was announced to the Senate yesterday. * * * The P[resident] nominated to the Senate W. V. Murray Mr. Pl.

* King, *Life and Correspondence of King*, vol. ii., p. 551.

† Ford's ed. of Washington's *Writings*, vol. xiv., p. 156, note.

‡ Hamilton's ed. of Hamilton's *Works*, vol. vi., pp. 397-398. See also Morse, *John Adams*, pp. 300-301.

[minister-plenipotentiary] to the French republic, & added, that he shall be instructed not to go to France, without direct & unequivocal assurances from the Fr[ench] government, that he shall be received in character, enjoy the due privileges, and a minister of equal rank, title & power be appointed to discuss & conclude our controversies by a new treaty. This had evidently been kept secret from the Feds. of both Houses, as appeared by their dismay. The Senate have passed over this day without taking it up. It is said that they are graveled & divided; some are for opposing, others do not know what to do. But in the meantime, they have been permitted to go on with all the measures of war and patronage, and when the close of the session is at hand, it is made known. However, it silences all arguments against the sincerity of France, and renders desperate every further effort towards war."*

Probably the effect of Adams' mission upon the Hamiltonian Federalists can be put in no clearer light than by two letters written by George Cabot to Hamilton. In August of 1800 he wrote as follows:

"I often declare that the mission to France, though impolitic, unjustifiable, dangerous, and inconsistent; the expulsion of able, upright and faithful officers * * * though a ruinous precedent; the pardon of Fries, though a sacrifice of the safety as well as dignity of the state; * * * that all these would not induce me to oppose the President's re-election if I did not view them as evidence, explained and confirmed by other evidence, that he has abandoned the system he was chosen to maintain, and that he is likely to introduce its opposite, with all its pernicious consequences, as fast as he can, and as far as his influence will go."

In speaking to Hamilton of his Adams pamphlet, written at the time of the election, Cabot said that certain Federalists "expected you would have analyzed him [Adams] so effectually as to prove that he is and must be but little attached to the support

* Ford's ed. of Jefferson's *Writings*, vol. vii., pp. 362-363; see also pp. 364-365.

of the public credit and the rights of property; in a word, that war with England, privateering, and paper money, with all their baneful appendages and consequences are viewed by him, not as evils to be deprecated, but resources to be preferred to that stable condition aimed at by the Washington system which he hates and which he has been constrained by circumstances to support.*

The nomination of Murray as envoy to France met the approval of the vast majority of the Federalist party. But some were impressed by the cry of the Hamiltonian Federalists that the enemies of the government within the country were so numerous and powerful as hardly to maintain the position of the country. Hamilton's followers in the Senate saw that opposition to the policy of the President was therefore useless. Moreover, they acted on the theory that it was expedient to strengthen the hands of the executive as much as possible and that the Senate had no right to judge as to the propriety of making nominations, but only as to whether the persons so nominated were fit.† After two days' delay, the nomination was referred to a committee of five, of which Theodore Sedgwick was chairman. This committee waited on the President to remonstrate with him. "Perpetually indulging the hope of overruling the judgment of their

chief, they fancied that a display of senatorial authority might be sufficiently imposing to prompt a voluntary withdrawal of his act, and save them the necessity of voting upon it."‡ Adams remained firm, but perceiving that Murray's nomination was likely to be rejected unless he conceded something, offered to join two other persons with Murray to proceed on the mission as soon as assurances were given that they would be favorably received.† Withdrawing his first nomination, therefore, on February 25, 1799, he sent a second message, naming Patrick Henry and Oliver Ellsworth, the latter then chief justice, joint ambassadors with Murray;‡ and bitterly as the Federalists felt their humiliation, the Senate accepted the revised proposal. Henry declined, however, for reasons of age, saying: "Nothing short of absolute necessity could induce me to withhold my little aid from an administration, whose ability, patriotism, and virtue deserve the gratitude and reverence of all their fellow-citizens."|| General

* John Adams, *Works*, vol. i., p. 547; Morse, *John Adams*, pp. 301-302.

† McMaster, vol. ii., pp. 429-430; Schouler, *United States*, vol. i., p. 442.

‡ Richardson, *Messages and Papers*, vol. i., p. 284; John Adams, *Works*, vol. i., p. 549; vol. ix., pp. 162-163. See also W. G. Brown, *Life of Oliver Ellsworth*, p. 273 (1905); Lodge, *Life of Cabot*, pp. 233-234.

|| *Annals of Congress*, 6th Congress, 2d session App., pp. 1086-1087; Tyler, *Life of Patrick Henry*, p. 368; John Adams, *Works*, vol. viii., p. 642; vol. x., pp. 641-642; Henry, *Life of Patrick Henry*,

* *Life and letters of George Cabot*, pp. 287, 300.

† *Ibid.*, pp. 235, 240-242.

William R. Davie, of North Carolina, was thereupon nominated in Henry's place.* The departure of Ellsworth and Davie being postponed until satisfactory assurances were received of the favorable reception of the embassy, they did not leave America before November 5.

Meanwhile, on March 6, the Secretary of State sent Murray his commission as joint envoy, directing him to obtain assurances of a proper reception of the embassy by the French government.† On the evening of the 10th the President and the Cabinet discussed and agreed upon the terms upon which the negotiations were to be conducted,‡ and on the next day the President hurried to his home at Quincy — a step which has been characterized as “a great error.” ||

Murray received the instructions early in May, and thereupon entered into correspondence with Talleyrand. On May 12 he received an answer from Talleyrand containing the expected assurances.§ and immediately forwarded his letter to the

United States, where it was received July 30. Accordingly, early in August, Adams directed the envoys to prepare for an immediate departure and requested the Secretary of State to prepare a set of instructions for them and to send it to him for approval at the earliest possible date. These instructions were transmitted early in September,* and at the same time Adams was apprised of the revolution of the 30th Prairial, by which the Directory was overthrown. The Federalist obstructionists seized upon this as a last hope. On behalf of the Cabinet, Pickering earnestly advised the President to suspend the mission; and, though he sent the instructions as requested by the President, he followed this by a secret effort with Cabot to force the President to decide upon a suspension. Cabot was dismayed by finding that the President's old jealousy of Hamilton had increased ten-fold and that he distrusted Pickering, Wolcott, and all who censured Gerry. Moreover, Pickering's influence, though reinforced by Hamilton's advice, extended only to Wolcott and McHenry. Lee and Stoddert disapproved of suspending the mission, for all signs indicated that a favorable opportunity presented itself for negotiating a treaty. Stoddert, scenting with displeasure the plots then forming, broadly hinted to the President that he ought to return to the seat of government as speedily as

vol. ii., pp. 622-624. See also Schouler's opinion as to the President's course, *United States*, vol. i., pp. 443-445.

* McMaster, vol. ii., p. 430.

† *American State Papers, Foreign Relations*, vol. ii., p. 243.

‡ Mr. C. F. Adams claims (*John Adams, Works*, vol. i., p. 550) that the more conservative portion of the Federalists (John Marshall, Lincoln, Dexter, and others, with two of the members of the Cabinet) supported the course of the President in making these advances toward fresh negotiation.

|| John Adams, *Works*, vol. i., p. 551.

§ *American State Papers, Foreign Relations*, vol. ii., pp. 243-244.

* See Pickering's letter to Adams, in *Adams' Works*, vol. ix., pp. 23-25.

possible. As Adams did not take the hint, Stoddert wrote more explicitly, adding that such use would be made of his absence as to make his reëlection doubtful. This letter aroused the President's jealousy, and he at once prepared to set out for Trenton.* Early in October, therefore, Adams left Quincy, called on Judge Ellsworth at Windsor,† and on the 10th reached Trenton, whither Congress had removed because of the yellow fever epidemic in Philadelphia. Davie was already there, as was also Alexander Hamilton, ostensibly on business of the army; and a day or two later, Judge Ellsworth arrived. On the 15th the instructions were again discussed by the Cabinet and at a late hour were finally determined upon, although the time of departure was not definitely fixed. The next morning, however, without consulting the Cabinet, Adams directed the Secretary of State to prepare the necessary papers for the use of the envoys and ordered the frigate *United States* to be ready to convey them to their destination not later than November 1. Accordingly, as already stated,‡ they

sailed on November 5. In the Cunningham letters, Adams says:

"Before I left Philadelphia, I had called together all the five heads of departments to consult upon instructions to Mr. Ellsworth, Mr. Davie, and Mr. Murray, in their negotiations with France. We had met several days, and discussed every point in controversy. We had reasoned, and examined, and convinced one another, until we had agreed *unanimously* upon every article, and reduced the whole to writing. I gave it to the secretary of state to reduce it into form, correct the language where it wanted any alteration, make a fair copy, and send it as soon as possible to me at Quincy for revision and correction, that I might sign the instructions to be delivered to the envoys.

"Arrived at Quincy, I expected them by every post. Week after week passed away, and no instructions arrived. I was uneasy, because our envoys ought to be upon their passage. After a long time, instead of instructions, came a letter to me signed by all five of the heads of departments, advising and most earnestly entreating me to *suspend the embarkation* of the ministers. This trifling, this negligence of duty, this downright disobedience of my orders, most seriously alarmed me. I was responsible *alone* to my country, for measures which I knew to be indispensable to avoid a war abroad with France, and a civil war at home; while we were involved and embroiled with England in very difficult controversies, and *I could get nothing done*. I very coolly, however, preserved my temper, and set off immediately for Trenton, to meet my gentlemen face to face. At Trenton I found the gentlemen had wrought themselves up to a perfect enthusiasm and delusion."*

At this time the members of the Cabinet were anticipating the restoration of the Bourbons by Austria and Russia. Adams proceeds: "I heard all their reasons with the utmost coolness and candor; gave my reasons and opinions in answer to theirs; and decided that the instructions should be finished, and the ambassadors embarked as soon as pos-

* Schouler, *United States*, vol. i., pp. 452-453.

† Brown, *Life of Oliver Ellsworth*, pp. 277-278.

‡ John Adams, *Works*, vol. ix., p. 39; Morse, *John Adams*, pp. 304-305. Compare Mr. Gibbs' statements (vol. ii., pp. 267-277) with the account given by Mr. C. F. Adams (vol. i., pp. 551-559). Mr. Adams argues warmly that the last charge which ought to be made against the President is, his being deficient in decision and energy of character, for "These were the characteristics which had been the most fully developed in the course of his career, and made the basis of his reputation as a public man."

* See also John Adams, *Works*, vol. ix., pp. 251-252.

sible, *which was done*; and they brought back peace abroad and at home. I found Hamilton at Trenton. He came to visit me. I said nothing to him upon politics. He began to give his advice unmasked. I heard him with perfect good humor," etc., going on to say, among other things, that "never in his life did he hear a man talk more like a fool."*

Thus again foiled in their schemes, the plotters resorted to other measures, which they thought would prove equally effective. Hamilton expressed his disappointment to Washington, to whom he had as yet made no mention of the Miranda project, seeking to inflame the resentment of the commander-in-chief against Adams. In conclusion, he said: "I hope that the President's decision may not, in its consequences, involve the United States in a war on the side of France with her enemies." The Secretaries should have resigned at this juncture, but, restrained by motives of self-interest, they did not do so. Instead of accepting the President's discipline in a becoming attitude and endeavoring to make amends for the past, Pickering, Wolcott, and McHenry undertook to revenge themselves by defeating every effort to renominate Adams for the Presidency in the approaching campaign. They thought that by continuing in their Cabinet positions they could accomplish this much more easily.

The President's determination to send the envoys accorded with the expectations of three-fourths of the rank and file of the Federalist party and with the general sentiment of the country. But the internal dissension created by this move proved fatal to the Federalist party, and the gloomy foreboding of defeat seems to have been widespread. The Federalist party had done noble work in bringing into life a stable government, but such had been the conduct of its leaders that the way was now paved for what Jefferson termed the "Republican Revolution of 1801." Fortunately, before this happened, the official head of the Federalists was still strong enough to avert war with France. He was as ready to defy the courts of Continental Europe in 1798 as he had been to defy England in 1775, but he did not allow that defiance to involve the country in the horrors of war. Yet, by sending the French mission he split the party into two irreconcilable factions and made his own reelection impossible. His action had subjected him to fierce and vindictive criticisms from the Federalist leaders, but in this instance the verdict of Adams himself is undoubtedly the verdict of history. Writing to James Lloyd in 1815, he says:

"I will defend my mission to France as long as I have an eye to direct my hand, or a finger to hold my pen. They were the most disinterested and meritorious actions of my life. I reflect upon them with so much satisfaction that I desire no other inscription over my gravestone than,

*See John Adams, *Works*, vol. i., p. 554 *et seq.*, vol. ix., pp. 254-255. See also Lodge, *Alexander Hamilton*, pp. 220-221.

'Here lies John Adams, who took upon himself the responsibility of peace with France in the year 1800.' *"

Writing to another friend, he says:

"A glorious and triumphant war it was. Instead of hearing of vessels taken in our rivers, and burnt in our harbors, as we have done for a long time, not a hostile sail dared to spread itself on any part of our vast sea-coast. Instead of our merchant ships being taken by the scores, and our property captured by millions in the West Indies, we cleared the whole seas, and not a privateer or picaroon, or even a frigate, dared show its head. The proud *pavillon* of France was, in many glaring instances, humiliated under the eagle and stripes of the United States. But the greatest triumph of all was, that the haughty Directory, who had demanded tribute, refused to receive our ambassadors, and formally and publicly, by an act of government, declared that they would not receive any more ministers from the United States till I had made excuses and apologies for some of my speeches, were obliged to humble themselves, *retract* all their declarations, and transmit to me the most positive assurances, in several various ways, both official and unofficial, that they would receive my ministers, and make peace on my own terms."

Meanwhile the American envoys arrived at Lisbon on November 27. There they learned that Napoleon had accomplished the Revolution of the 18th Brumaire (November 9, 1799), had driven the council out of office, dissolved the Directory, overturned the Constitution, and had placed himself in power. Nevertheless, they determined to proceed with their mission, but, being delayed by contrary winds, did not reach Corunna before January 16, 1800. Talleyrand was still in office, and to him the envoys wrote before proceeding further. He answered that they "were ex-

pected with impatience and would be received with warmth," and urged them to come to Paris at once. Reaching that city March 2, the envoys were received by Napoleon, who appointed Joseph Bonaparte, Fleurein and Rœderer commissioners to conduct the negotiations. A difficulty immediately appeared which threatened to prevent an amicable settlement. The Americans were instructed to insist that recent events had nullified the old treaties and also to demand compensation for depredations upon American commerce;* but the French commissioners desired the continuance of the former treaties and asserted that only on the guarantee that they continue in force would the French stipulate respecting indemnities. The Americans proposed to discharge the obligations of those treaties while renewing them in other respects, and then to claim the compensations spoken of; but to this France would not consent.† As the instructions of the American envoys were positive, they were now compelled either to break off negotiations or to make a temporary arrangement which — if approved — would enable the American government to resume amicable relations with France.‡ Finally the

* *American State Papers, Foreign Relations*, vol. ii., pp. 391-396; *Annals of Congress*, 6th Congress, 2d session, App., pp. 1108-1123. See also Brown, *Life of Oliver Ellsworth*, pp. 289-291.

† See *Senate Doc.* 102, 19th Congress, 1st session.

‡ Winsor, *Narrative and Critical History*, vol. vii., pp. 475-476.

* John Adams, *Works*, vol. x., p. 113. See also Morse, *John Adams*, pp. 309-310.

American envoys proposed a convention by which the points in dispute would be left for future negotiation. A compromise was effected, and on September 30, 1800, the Treaty of Morfontaine was signed. The older treaties were suspended for further consideration and the demands for indemnities were left for future negotiation. National vessels captured by either party were to be given up.* Other articles provided that all uncondemned captured property, save contraband, be restored by both governments. The payment of debts was stipulated. Both nations were put on an equal footing with the most favored nation. Provision was made to protect the commerce of the United States against such depredations and attacks as had been made upon it by French privateers and which had led to rupture between the two nations.†

* These two articles were not sanctioned by the Senate, and the matters treated of in them were not settled until after Mr. Adams retired from office. Writing to Madison, December 19, 1800, Jefferson says that the convention "is a real treaty, and without limitation of time. It has some disagreeable features and will endanger the compromising us with G[reat] B[ritain]. * * * I believe it will meet with opposition from both sides of the House. It has been a bungling negotiation." And on December 26,— "The French treaty will be violently opposed by the Feds; the giving up the vessels is the article they cannot swallow." See Ford's ed. of Jefferson's *Writings*, vol. vii., pp. 471, 473-474.

† McMaster, vol. ii., pp. 527-529. The text of the treaty will be found in *Treaties and Conventions between the United States and Other Powers* (first printed as *Senate Ex. Doc. no. 36*, 41st Congress, 3d session), pp. 266-275; *United States Statutes-at-Large*, vol. viii., p. 178 *et seq.*; Snow, *Treaties and Topics in American Diplomacy*, pp.

According to Gibbs, the United States secured but little advantage from this treaty and might better have persisted in its former policy.* C. F. Adams, however, while admitting that the treaty "touched but lightly on the causes of grievance between the two countries, and seemed to grant little redress to the wrongs of which America had justly complained," claims that "it gained what was of more worth to them; and that was a termination of all further danger of war, and a prevention of the causes of future difficulties. * * * It is sufficient to say, that these measures had the effect of reëstablishing the neutral policy of the United States, which had been for years an imminent peril, and of smoothing the way to the period of great prosperity which followed. It is difficult to imagine any other result of the turmoil and conflict of opinions that had so long prevailed, which, on the whole, deserved to insure a better

41-45; *American State Papers, Foreign Relations*, vol. ii., pp. 295-301; *Annals of Congress*, App., pp. 1098-1107. For the circumstances leading up to it, see Lyman, *Diplomacy of the United States*, chap. viii.; Emanuel Spencer, *Napoleon Bonaparte and Peace with America*, in *Magazine of American History*, vol. xxvi., pp. 298-301; Treseot, *Diplomatic History of the Administrations of Washington and Adams*, chap. iii.; *Annals of Congress*, 6th Congress, 2d session App., pp. 1124-1207; *American State Papers, Foreign Relations*, vol. ii., pp. 307-345; John Adams, *Works*, vols. viii.-ix.; *Life and Correspondence of Rufus King*, vol. ii.; Morse, *John Adams*, pp. 265-287 and Thomas Jefferson, pp. 173-193; Lodge, *Alexander Hamilton*, pp. 194-221; Brown, *Life of Oliver Ellsworth*, pp. 293-299.

* *Administrations of Washington and Adams*, vol. ii., p. 439.

return of gratitude to its authors, from the great body of citizens most deeply interested in the country's welfare."*

When Congress convened, the President was unable to announce the result of the French mission, but shortly afterward General Davie returned to America with the Convention, which was submitted to the Senate in December of 1800. There, after debate, the Federalist Senators who had been opposed to the mission struck out the two articles which referred to the treaties of 1778 and put off indemnities to a future negotiation, and thus abridged, Adams ratified the Convention in February of 1801.† He nominated James A. Bayard, minister-plenipotentiary, to convey the ratification to France and to continue the intercourse thus happily begun,‡ but Bayard did not accept the appointment, and the concluding act in the restoration of complete harmony was left to Adams' successor.

One of Jefferson's first acts was to send John Dawson, of Maryland, to France in the frigate *Baltimore*.|| Dawson carried with him the Convention as it had been revised in the Senate in February of 1801. The Senate had expunged the second

article of the Convention, to which Napoleon agreed, "provided that by this retrenchment the two States renounce the respective pretensions which are the object of the said article." This was agreed to by the Senate December 19, 1801, and thus a source of constant litigation was opened. The United States made an even exchange of the claims of her citizens against France, as opposed to the claims of French citizens against the United States, but no provision was made by the latter to recompense her citizens thus despoiled; the government "dishonestly declined to recognize those very claims by which she obtained release."*

One of the results of the dispute with France and England was the arbitration between the latter and the United States of American claims against Great Britain growing out of captures made, under the orders in council, and of British claims against the United States growing out of our failure completely to enforce its neutrality. The American commissioners were Christopher Gore and William Pinkney, of Maryland; the British commissioners were Sir John Nicholl (afterward succeeded by Maurice Swabey) and John Anstey. These commissioners were to choose by lot (in case they could not agree otherwise) a fifth commissioner, and

* *Life and Works of Adams*, vol. i., p. 575.

† The proceedings in secret session of the Senate are in *Annals of Congress*, 6th Congress, 2d session, pp. 767-778; Benton, *Abridgment of Debates*, vol. ii., pp. 492-496.

‡ See Adams' message to the Senate, March 2, 1801, Richardson, *Messages and Papers*, vol. i., p. 315.

|| McMaster, vol. ii., p. 594.

* McMaster, vol. ii., p. 606; Schouler, *United States*, vol. i., pp. 489-491; Allen, *Our Naval War With France*, chap. ix.

the choice fell upon Colonel John Trumbull, of Connecticut. Shortly after the commissioners began their meetings, controversy arose as to their power to determine their jurisdiction regarding several of the claims presented for a decision, the division of opinion at times becoming so pronounced that the British commissioners refused to attend the meetings. The controversy was finally settled, and the commissioners (after an interruption in their session from July 30, 1799, to February 15, 1802, pending the diplomatic adjustment of their difficulties) finished their business February 24, 1804. Through the operation of the stipulation under which the commissioners sat, it is estimated that Americans recovered from Great Britain the sum of \$11,650,000, while the awards against the United States aggregated only \$143,248.14.*

The depredations committed by European powers upon American commerce gave rise to many claims for indemnity. The final account with England was settled by the War of 1812. The claims against Spain were adjusted in 1819, when Florida was purchased. In 1830 a treaty was concluded with Denmark to settle the claims against that country, but these were offset in part by the claims of that kingdom against the United States.† The claims against Naples were not adjusted before 1832, when a

squadron was sent to enforce payment.* The claims against Holland were presented for payment by France, under the treaty of 1832, and were paid.† By the Conventions of 1800 and 1803, depredations committed under the decrees of the French Republic were disposed of. In 1812 Joel Barlow made an effectual attempt to adjust the indemnity claims against France; but, before anything could be accomplished, Napoleon had been compelled to retreat from Moscow, which dissipated all thoughts of an agreement.‡

In 1816 Gallatin went to France and entered upon a long tedious negotiation which lasted nearly fifteen years, being terminated by William C. Rives in 1831. On July 4, 1831, a treaty was concluded and ratified by which France agreed to pay the United States 15,000,000 francs, which was only about a fifth of the actual spoliations. Part of this was offset by claims of France against the United States amounting to 1,500,000 francs. But for several years the French Chamber of Deputies refused to appropriate the money necessary to put the treaty into effect, and it was not until 1836, when Great Britain offered mediation, that the French government took steps to discharge the obligation. The commission appointed

* Griffiths, *Life of M. C. Perry*, chap. xi.

† *House Ex. Doc.* 117, 24th Congress, 1st session; *American State Papers, Foreign Relations*, vol. v., pp. 598-629.

‡ Todd, *Life of Barlow*, chap. ix.

* Moore, *American Diplomacy*, pp. 204-207.

† See *Treaties and Conventions of the United States*, p. 1286.

by Congress to execute this treaty allowed claims against Holland, Spain, and Naples.*

Part of the claims arising from French depredations committed before 1801 were settled by the convention of 1803, when the United States assumed them (to the amount of about \$3,750,000) as part of the price paid for Louisiana. Under the second article of the convention of 1800, there was a class of claims which gave rise to a vast amount of discussion in and out of Congress and which have never yet been fully settled.† In order to relieve the country of the obligations imposed by the treaties of 1778 and 1788, the United States relieved France of all direct obligations to the claimants, who were thus debarred from the opportunity of prosecuting their claims against France. In 1802 application for relief was made to Congress; but, though a committee made a report setting forth the history of the spoliation, no action was taken. In 1807 a committee again reported favorably, and year after year such reports continued to be made until, by 1885, the total in both Houses

reached 48, of which but three were unfavorable—those of 1818 in the Senate, and of 1822 and 1824 in the House. In 1835 the Senate passed a bill appropriating \$5,000,000, but it failed in the House for lack of time. In 1846 and 1855 similar bills passed both Houses, only to be vetoed by Presidents Polk and Pierce, respectively.* Finally, in 1885, an act was passed referring the entire matter to the Court of Claims. That body threw out many of the claims because of insufficient or defective evidence, but reported upon those that could be proved. Bills appropriating money to pay the valid claims were passed from time to time, but nothing has been done. On June 6, 1896, President Cleveland vetoed a bill (House Bill 8293) appropriating \$1,027,314.09 as a partial payment upon these claims,† but there the matter ended, and some of the old claims are still pending.‡

* Richardson, *Messages and Papers*, vol. iv., pp. 466–469 and vol. v., pp. 302–322.

† *Ibid.*, vol. ix., pp. 683–687.

‡ Allen, *Our Naval War With France*, chap. xii. On these claims, see also the articles in the *North American Review* (October, 1825; January and October, 1826; and July, 1827); *American Quarterly Review* (September, 1831; June, 1835); *Boston Monthly Magazine* (January, 1826); *Democratic Review* (February, 1844); *Hunt's Merchants' Magazine* (February, 1845; October, 1846); *Atlantic Monthly* (August, 1870; February, 1891); *Magazine of American History* (July, 1884).

* See *American State Papers, Foreign Relations*, vol. vi., pp. 384–553; *House Ex. Doc.* 117, 24th Congress, 1st session; *Treaties and Conventions of the United States*, pp. 1309–1312.

† For a discussion of these, see Wharton, *Digest of International Law*, vol. ii., pp. 714–728.

CHAPTER XVIII.

1798-1801.

DOWNFALL OF THE FEDERALIST PARTY.

Split in the Federalist party — Last meeting of Congress at Philadelphia — Work on the capital city commenced — Mrs. Adams' description of it — Death of Washington — Fries' Rebellion — His pardon by Adams — Conspiracies — The Illuminati — The case of Nathan Robbins — Party divisions in Congress — The President's speech — The humiliation of John Randolph — Acts of Congress — Reorganization of the Cabinet — The New York elections — Hamilton's opposition to Adams — Nomination of Jefferson and Burr — Pickering's proposed exposure of Adams — Adams' letter regarding the Pinckneys — Hamilton's demand of retraction from Adams — His letter attacking Adams — Its failure — Ballots cast for Jefferson and Burr the same in number — Quandary of the Federalists — Hamilton's refusal to aid Burr — Jefferson's letters — The Federalists' deciding vote for Jefferson — Acts of Congress — Adams' "Midnight Judges" — Review of his administration.

Meanwhile the political situation had undergone a change. The agitation over the Alien and Sedition Laws, the various arrests for sedition, the hatred of England, etc., combined with the work of the Republicans, had gradually undermined Federal influence and power and ultimately drove them from office. The Congressional elections of 1798 had been hotly contested, and the Federalists succeeded in a quarter where the Republicans least expected. Out of the 37 Southern Congressmen, the Federalists won 22 — electing 8 out of the 19 from Virginia, 7 out of 10 in North Carolina, 5 out of 6 in South Carolina, and the 2 from Georgia.* John Marshall, John Randolph and Henry Lee were among the new members from Virginia,† and William Henry

Harrison appeared as a delegate from the territory Northwest of the Ohio. By this time the Federalists had become separated into two wings, which differed almost as widely as did the more moderate Federalists from the Republicans. The radical wing, headed by Hamilton, was convinced that the country was seriously menaced by dangers that threatened the very foundations of our social system. The moderate element, headed by John Adams, John Marshall and the Southern Federalists, was under no such delusion. These Republicans, without sharing the optimistic delusions of Democrats like Jefferson or Gallatin, accepted the broader construction of the Constitution not only as expressing its true meaning, but as conducing to the best interests of the country. The radicals formed only a small minority of the party. But this, "through the great ability of its

* Bassett, *Federalist System*, p. 276; Schouler, *United States*, vol. i., pp. 457-458.

† Henry Adams, *John Randolph*, p. 40.

leader, Alexander Hamilton, had up to the election of Adams, to a great extent determined the policy of the country." For some time after the election of Adams there was no occasion for divergence between the two wings of the party, nor could the final separation be attributed wholly to the failure of the French mission. The radical element wanted to declare war, but the moderates withheld their assent; and because he did not concur in Hamilton's ideas of what a vigorous administration should be, Adams was defeated in the Presidential election of 1800 and the Federalist party was overthrown. On the other hand, could Adams have disarmed the opposition of the radicals, and could he, moreover, have won to his support the men who really agreed with him as to the foreign and domestic policy of the government, probably he would have been reelected in 1800, and the course of American history for the next quarter of a century might have been quite different. Even as it was, the election of 1800 was not so much a victory of Republicanism over Federalism as a victory of Republicanism over the Federalism of Alexander Hamilton.

Save for a short period, the House of Representatives had always been under the control of the Republicans since the organization of this party. As Gibbs says, "the opposition were daily becoming more compact and firm; they saw the discouragements of their adversaries; they felt their own

advantages and the strength of their position, and they neglected nothing which organization, discipline, and vigorous action could effect."

The Congress elected in 1798 met in December of 1799, and this was the last time that Congress would hold a session at Philadelphia, for the District of Columbia had already begun to assume shape and the beginnings of the Federal city had been laid. Major Pierre Charles L'Enfant had been selected by Washington and Jefferson to draw the plan for the Federal city, and during the spring of 1791 had been engaged on the task. Jefferson had wished the design to be a sort of checker board, but L'Enfant broke the monotony of this arrangement by inserting a number of avenues running at acute angles. This plan was accepted by Washington, and L'Enfant was retained to supervise the work. The commissioners in charge decided to advertise some of the lots for sale in October of 1791, and requested L'Enfant to furnish the engraver with a plan for publication. This he refused to do on the plea that speculators would purchase the best locations in the "vistas and architectural squares" and "permanently disfigure the city" by "huddles of shanties." For this insubordination he was dismissed by Washington on March 1, 1792. Andrew Ellicott was thereupon deputized to continue the laying out of the city, and soon prizes were offered for the best plans for the President's house and the capitol. On

September 18, 1793, the corner stone of the capitol was laid. Toward the erection of these buildings, Virginia subscribed \$120,000 and Maryland \$72,000. But the progress on the new city was so slow that even three years later scarcely 200 houses had been erected, the main buildings being the White House, which was nearly completed, and the capitol, which was progressing rapidly. A great portion of the city was a forest through which ran such streets as had been laid out,* but the beautiful squares, bridges, canals, etc., were still on paper. Congress was then requested to appropriate \$300,000 to continue the work, and permission was given to borrow that sum on the unsold government lots. The building was then hurried forward, but even in June of 1800 the city was scarcely habitable. The houses were mean; the roads were poor; there was no business, no industry, no society, and those of the merchants who were not negroes were of none too good a character.† Mrs. Adams gives a graphic account of the city in a letter written to her daughter in November of 1800. She says:

"I arrived here on Sunday last, and without meeting any accident worth noticing, except losing ourselves when we left Baltimore, and going eight or nine miles on the Frederic road, by which means we were obliged to go the other eight through the woods, where we wandered two hours without finding a guide or the path. Fortunately, a

straggling black came up with us, and we engaged him as a guide to extricate us out of our difficulty; but woods are all you see, from Baltimore, until you reach the *city*,—which is only so in name. Here and there is a small cot, without a glass window, interspersed among the forests, through which you travel miles without seeing any human being."

Regarding the President's official residence, Mrs. Adams says:

"The house is upon a grand and superb scale, requiring about thirty servants to attend and keep the apartments in proper order, and perform the ordinary business of the house and stables: an establishment very *well* proportioned to the president's salary! The lighting [of] the apartments, from the kitchen to parlors and chambers, is a tax indeed; and the fires we are obliged to keep, to secure us from daily agues, is another cheering comfort!

"If they will put me up some bells, (there is not one hung in the whole house, and promises are all you can obtain!) and let me have wood enough to keep fires, I design to be pleased. I could content myself almost anywhere three months; but, surrounded with forests, can you believe that wood is not to be had?—because people cannot be found to cut and cart it! Briesler entered into a contract with a man to supply him with wood; a small part (a few cords) only has he been able to get. Most of that was expended to dry the walls of the house before we came in; and yesterday the man told him it was impossible to procure it to be cut and carted. He has had recourse to coals but we cannot get grates made and set. We have come indeed into a 'new country.' The house is made habitable, but there is not a single apartment finished, and all within-side, except the plastering, has been done since Briesler came. We have not the least fence, yard, or other convenience without, and the great unfinished audience-room I make a drying-room of, to hang up the clothes in. The principal stairs are not up, and will not be this winter. Six chambers are made comfortable; two are occupied by the president and Mr. Shaw; two lower rooms, one for a common parlor, and one for a levee-room. Up stairs there is the oval room, which is designed for the drawing-room, and has the crimson furniture in it. It is a very handsome room now; but when completed, it will be beautiful."

* Schouler, *United States*, vol. i., pp. 487-488.

† McMaster, vol. ii., pp. 484-489. See also the documents in relation to this in *American State Papers, Miscellaneous*, vol. i., pp. 219-231, 243-246, 254-260.

December 1799

8. Morning perfectly clear, calm and pleasant; but about 9 o'clock the wind came from the N. W. and blew fresh. Mer 38 in the morning. - at Night -
9. Morning clear & pleasant with a light wind from N. W. Mer at 33. - Pleasant all day - afternoon Calm Mer 39 at Night - Mr. Horrell Lewis & wife set off on their return home after breakfast - and Mr. Law Lewis and wife & Mr. Foster & wife & Mr. F. K. Kier.
10. Morning clear & calm - Mer at 31 afternoon covering - Mer at 42 and wind brisk from the Southward - A very large hear frost this morn.
11. But little wind and Rain in - Mer 44 in the morning and 38. at Night. - about 9 o'clock the wind shifted to N. W. & it ceased raining but left cloudy. - Lord Fairfax his son Thos. and daughter - Mr. Warner Washington & son Whiting - and Mr. Dr. Herbert dined here & returned after dinner. -
12. Morning cloudy - Wind at N. E. & Mer 33. - a large circle round the Moon last Night. - about 1 o'clock it began to rain - soon after to hail and then mixed to a settled cold Rain - Mer 28 at Night.
13. Morning Snowing & ab. 3 Inches deep - Wind at N. E. & Mer at 30. - about 1 o'clock - and ab. 1 o'clock it became perfectly clear - wind in the east & blast but not hard - Mer 28 at Night. -

In June of 1800, by the President's orders, the public offices were removed to Washington, but neither the President nor his wife had cause to complain of the condition of the city very long, as they were to reside there less than a year.

Hardly had Congress settled down to business when an event occurred which threw the whole nation into mourning. Shortly after the opening of the first session of the sixth Congress, in December of 1799, announcement was made that Washington had passed away at Mt. Vernon. Having attended to such duties as commander of the army as seemed to be requisite in the event of an invasion by the French, he had retired to Mt. Vernon, where he divided his time between agricultural pursuits and the numerous public duties which it was impossible to put aside. On December 12 he was several hours on horseback, riding about and giving various directions for the improvement of his estate. It had rained the greater part of the day, and he had been soaked and chilled. The next day, despite a heavy snow storm, he went out again for a short time. He was aware from his hoarseness that he had caught a violent cold, but apprehended no serious consequences, and, after spending the evening with his family, retired at the usual hour.* During the night he was seized with a violent ague succeeded by fever, and, at his

request, was bled, but he would not permit a messenger to be sent for the family physician until the following morning.* On the arrival of Dr. Craik on Saturday, the 14th, various remedies were employed to alleviate the pain, but in vain. Toward evening he went to bed, after remarking with much effort: "I die hard, doctor, but I am not afraid to die. My breath cannot last long."† He then thanked the physicians for their kindness and asked to be permitted to die quietly in his bed. Nothing further was done, and between ten and eleven o'clock at night Washington expired.‡ Thus quietly and unostentatiously passed away our first, if not our greatest President, the man who, more than any other, had helped the country to get on her feet and kept her up until she could well stand alone. On the 18th of December his remains were deposited in the family vault at Mount Vernon.||

* Irving, *Life of Washington*, vol. v., p. 334.

† Sparks, *Life of Washington*, p. 487.

‡ For Mr. Lear's interesting account of the last illness, death, and funeral of Washington, see Sparks, *Life of Washington*, pp. 531-538, and the edition of Washington's letters to Lear (pub. by Doubleday, Page & Company, 1906, pp. 129-141).

|| Marshall's address in the House, December 19, will be found in *Annals of Congress*, 6th Congress, 1st session, pp. 203-204; Benton, *Abridgment of Debates*, vol. ii., pp. 433-434; Sparks, *Life of Washington*, pp. 539-540; Irving, *Life of Washington*, vol. v., pp. 411-413; A. B. Magruder, *Life of John Marshall*, pp. 139-141. The text of the address of the Senate to the President December 23 (slightly differing) will be found in Richardson, *Messages and Papers*, vol. i., pp. 298-299; *Annals of Congress*, 6th Congress, 1st session, pp. 17-18; Irving, *Life of Washington*, vol. v., pp. 413-414; Benton, *Abridgment of Debates*, vol. ii., p. 403;

* Lodge, *George Washington*, vol. ii., p. 294; Irving, *Life of Washington*, vol. v., p. 332.

Meanwhile the Republicans were taking courage from the state of affairs, not only in Congress, but all over the country. Cabot had said that if his party controlled Congress, "the hands of the country need be bound no longer, and in that case I think the Executive can do everything."* The Federalists still had a majority in Congress, Sedgwick was again chosen Speaker of the House,† and, in the absence of the Vice-President, Samuel Livermore was appointed President of the Senate. But the Federalist majority was composed of conservative men who would not go to extremes—being "new and moderate men,"‡ and as a result support began to fall away until the radicals found themselves in the minority.

Sparks, *Life of Washington*, pp. 540-541. The reply of President Adams is in John Adams, *Works*, vol. ix., pp. 142-143; Richardson, *Messages and Papers*, vol. i., pp. 299-300; *Annals*, pp. 18-19; Benton, pp. 403-404; Irving, *Life of Washington*, vol. v., pp. 415-416. The resolutions of Congress December 23 are in *Annals*, pp. 18-19; Benton, p. 404; Sparks, pp. 542-543; Irving, vol. v., pp. 416-417. Lee's oration, in which he used the words "First in War, First in Peace, and First in the Hearts of his Countrymen" will be found in *Annals*, pp. 1306-1311; G. W. P. Custis, *Recollections of Washington: American State Papers, Miscellaneous*, vol. i., pp. 192-194. Tuckerman's character of Washington will be found in Henry T. Tuckerman, *Essays Biographical and Critical; or, Studies of Character*, pp. 5-28. Mason's funeral oration is in *Works of Dr. John M. Mason*, vol. iv., pp. 477-496. Talleyrand's remarks are in Lodge, *George Washington*, vol. i., p. 1 *et seq.*

* Gibbs, *Administrations of Washington and Adams*, vol. ii., p. 110.

† Fuller, *Speakers of the House*, pp. 27-28.

‡ Ford's ed. of Jefferson's *Writings*, vol. vii., p. 446.

The contempt with which the Federalists overwhelmed the Republicans welded the latter together, so that even Washington cried in despair: "Let that party [but] set up a broomstick, and call it a true son of liberty—a democrat—or give it any other epithet that will suit their purpose, and it will command their vote *in toto*."*

According to Jefferson, the Republicans were "attached to the preservation of the Federal Constitution according to its obvious principles, & those on which it was known to be received; attached equally to the preservation to the states of those rights unquestionably remaining with them; friends to the freedom of religion, freedom of the press, trial by jury, & to economical government; opposed to standing armies, paper systems, war, & all connections, other than commerce, with any foreign nation."† These policies were loudly proclaimed and caused numberless desertions from the Federalist ranks. The Republicans won many adherents, particularly among those living in rural districts, where distrust of the Federalists was strongest. Adams also was becoming less and less tactful as time passed, being described by McHenry as one who "whether spiteful, playful, witty, kind, cold, drunk, sober, angry, easy, stiff, jealous, careless, cautious, confident, close, or open, is

* Ford's ed. of Washington's *Writings*, vol. xiv., p. 191.

† *Ibid.*, vol. ii., p. 450.

so, almost always in the wrong place and to the wrong person.”*

Other events had tended also to insure Republican success in the approaching elections. In Pennsylvania the government had attempted to assess the direct tax laid by Congress in July of 1798. Of the total of \$2,000,000, Pennsylvania's share was \$237,177.73† and assessments were to be laid on lands, houses and slaves; but, as there were only a few over 1,700 slaves in the State, the tax fell principally on houses and lands. The land valuations were assessed in the usual way, but a new method of assessing houses unknown to the average person was adopted—that of determining the worth of the house according to the number and size of the windows. As the majority of the citizens had never heard of such a method, it created no little suspicion regarding the intentions of the government. Yet it was not until the most easterly counties of the State were reached that the most serious opposition was experienced. There the Republicans were in the majority and were fully determined that the tax should not be collected. The assessors attempted to explain the workings of the new method, but the people would not listen; they cheered Jefferson and liberty and damned Adams and the Con-

stitution; threatened the assessors, set dogs on them, threw boiling water on them when they attempted to take measurements, and threatened to shoot them in the legs. On March 4 the collectors determined to send three of their number into Bucks County to take measurements, but while engaged in this work they were warned by John Fries not to continue it.* The assessors disregarded his threats, however, and continued their work until night. Then they were assaulted, but one of them escaping to Quakertown.

Meanwhile, in Lehigh County, the same opposition had been experienced, and it became necessary to make arrests. The people disregarded the warrants served by state officials, and application was made to the Federal courts. Warrants were issued and on March 2 the marshal reached Nazareth and began to make arrests, the prisoners being sent to Bethlehem.† This set the entire county aflame and the citizens resolved to free the captives. On March 7 a body of several hundred men, under the leadership of Fries, marched to Bethlehem, and, as they entered the town, were met by another band which had been formed for the same purpose. Some of the prisoners had been paroled, but those still in duress were held in a small room in the Old Sun

* Hamilton's ed. of *Hamilton's Works*, vol. vi., p. 479.

† See Wolcott's report of May 25, 1798, *American State Papers, Finance*, vol. i., p. 589.

* McMaster, vol. ii., pp. 434-435.

† Report of the Marshal, March 11, 1799, *American State Papers, Miscellaneous*, vol. i., p. 185; *Annals of Congress*, 6th Congress, 2d session, App., pp. 1295-1298.

Tavern. Fries demanded that the marshal set them free, threatening that if he refused, the town would be set afire. The marshal considering it best to accede to their demands, the prisoners were liberated.*

The government now became alarmed, and on March 12 President Adams issued a proclamation calling upon the insurgents to disperse.† Governor Mifflin then summoned the militia, which, on March 20, with a body of regulars under the command of General William McPherson, proceeded to quell the insurrection‡ Fries and a number of the leaders were captured. When placed on trial, Fries was found guilty, but was granted a new trial when it was ascertained that one of the jurors had previously committed himself against him. In April of 1800 the new trial was held and again Fries was found guilty. He was sentenced to death, but on May 21, greatly to the surprise of the Federalists, Adams pardoned him.¶ Hamilton and other Federalists denounced the President's course as "a fatal concession to his enemies," and as intended to gain him

popularity in Pennsylvania in the approaching election.

In October of 1799 Pennsylvania chose a new governor. The present incumbent, Mifflin, had already served three terms, and was therefore barred by the State constitution from another term. The Republicans nominated Thomas McKean, and the Federalists chose James Ross. The campaign was bitter and personal, and when the polls had closed on October 8, McKean had carried the state. The Republicans celebrated this victory by parades and bonfires.†

In this same month Adams quarreled with his Cabinet, as previously stated, over the instructions to the envoys to France and as to the time of their departure; and when the details of this quarrel became public, the people became still more incensed against the Federalists.

Meanwhile all sorts of rumors of plots, "conspiracies and tales of a tub" were abroad. In February Governor Edward Rutledge, of South Carolina, was informed that a conspiracy was on foot; that four persons were on their way from Hamburg as representatives of the French Directory and armed with papers and dispatches inimical to the United States,

* *American State Papers, Miscellaneous*, vol. i., p. 186; McMaster, vol. ii., pp. 436-437.

† Richardson, *Messages and Papers*, vol. i., pp. 286-287; John Adams, *Works*, vol. ix., pp. 174-175.

‡ His instructions are in *American State Papers, Miscellaneous*, vol. i., pp. 188-189; *Annals of Congress*, 6th Congress, 2d session, App., pp. 1302-1304.

¶ Richardson, *Messages and Papers*, vol. i., pp. 303-304; John Adams, *Works*, vol. ix., pp. 60-61 and 178-179.

* McMaster, vol. ii., pp. 437-438; Schouler, *United States*, vol. i., pp. 458-459; Wharton, *State Trials*, pp. 458-648. See also Mr. Gibbs' remarks, vol. ii., pp. 360-362; compare Mr. C. F. Adams' statements, John Adams, *Works*, vol. i., pp. 571-574. The records of the trial are in *Annals of Congress*, 7th Congress, 2d session, pp. 1354-1554.

† McMaster, vol. ii., pp. 448-449.

which would be found in the false bottoms of two tubs. It was stated that they had sailed in the *Minerva* bound for Charleston. When that vessel arrived, the collector and the naval officer of the port boarded her, arrested four men and a woman, knocked out the false bottoms of the tubs and carried off the supposed state papers; but the whole affair turned out to be absurd, as it was ascertained that the men were not conspirators nor the woman a spy, and the documents were merely papers of a private nature regarding a suit the woman intended to institute in this country.* A similar hoax was perpetrated in Philadelphia, where it was ascertained that the French had ordered sufficient military uniforms for an army; but investigation proved that these uniforms were for the negro soldiers in the army of Toussaint L'Ouverture.†

A new reason was now advanced for hating and fearing the French. The French were accused of forming secret societies, called the Societies of Illuminati or Illuminers, to despoil, imprison and banish the clergy of America. A counter charge was made that the clergymen themselves were illuminated and that the rapid growth of the ministers' clubs, recently formed, had concentrated such power and influence in their hands as to enable them to foist their own opinions and politics upon New England. These were the true despoilers of the

clergy and the destroyers of the principles of free government. But it was alleged that the British raised up issues of conspiracy, etc., to hide the purposes of this latter class and that, while the people's attention was directed to the Illuminati, the English were filling the country with emissaries. The government was accused of being an appendage of Parliament and its officers of being British pensioners.*

An event now occurred out of which the Republicans made much political capital. In 1797 a mutiny had occurred aboard the British frigate *Hermoine*, in which one Nathan Robbins (or Thomas Nash, as the British claimed) was suspected of being concerned. In 1799 Robbins was haled by the British consul at Charleston before Judge Bee of the district court so that he might be sent to Jamaica for trial, in accordance with article xxvii of Jay's treaty, which provided for the extradition of persons guilty of murder and forgery. Judge Bee was in doubt as to the propriety of allowing the extradition, but the British minister, Mr. Liston, applied to the Secretary of State, and Pickering sent to Judge Bee the President's "advice and request" that Robbins be delivered to the British authorities. Counsel for Nathan Robbins, alias Thomas Nash, produced in court a certificate dated New York, May 20, 1795, to the effect that one Jonathan Robbins was a citi-

* McMaster, vol. ii., p. 441.

† *Ibid*, vol. ii., p. 442.

* McMaster, vol. ii., pp. 442-446.

zen of the United States; and the fellow in question—as Jonathan, not Nathan, Robbins—swore that he was a native of Danbury, Connecticut; that he had been pressed on board the *Betsy* of New York two years previously, and chanced to be on the *Hermione* at the time of the mutiny, to which, however, he denied having given any assistance. Nash (or Robbins) was delivered to the British authorities, taken to Jamaica, tried by court-martial and executed—before his execution confessing to being an Irishman*

With a view to making political capital of this incident, the Republican leaders in Congress passed a resolution on February 4, 1800, requesting the President to submit the papers relating to the Robbins case. Adams submitted the papers without delay, and, to the surprise of the Republicans, it appeared that two certificates had been received from the Danbury authorities stating that no Jonathan or Nathan Robbins, nor any one else of the name of Robbins, had ever been known at that place. Two extracts of letters from Sir Hyde Parker were given stating that, before his execution, Nash had acknowledged his British citizenship and had confessed that he had been transferred to the *Hermione* in 1793.†

Resolutions of censure were moved on February 20 and debated with great vehemence, but on March 6 John Marshall delivered a speech which, as Story says, “silenced opposition and settled then and forever the points of national law upon which the controversy hinged.” The motion was lost by a vote of 62 to 35.*

“This incident,” says Sullivan, “is strongly illustrative of the times. It is well remembered, that the impression sought to be made on the public mind was, that the president had delivered up one of his own countrymen, in obedience to British requisition, to be hung; notwithstanding the accused citizen had done no more than he lawfully might do, to escape from the tyrannical impressment of the mistress of the seas. It is not surprising that any administration should be overthrown, when such calumnies were received as truths.”

Meanwhile party spirit was running strong in Congress, and the war party was suffering the loss of vote after vote. When Congress convened the change in the political atmosphere was most noticeable in the House. Though there was a decided Federalist majority in both Houses, the ma-

* See Benton, *Abridgment of Debates*, vol. ii., pp. 444–469; *Annals of Congress*, 6th Congress, 1st session pp. 511, 526, 531–532, 541–578, 583–621. “The opposition,” says Tucker (vol. ii., p. 68), “seemed about to triumph, when General Marshall made an argument of so much power and skill as to turn the current the other way. He even attained the rare success of convincing some of his opponents, and of silencing those whom he could not convince.”

* McMaster, vol. ii., pp. 446–447. See also J. B. Thayer, *Life of John Marshall*, pp. 40–51.

† The documents are in *American State Papers, Foreign Relations*, vol. ii., pp. 284–285; *Annals of Congress*, 6th Congress, 1st session, pp. 515–518.

jority in the House appeared more like its old self than it had been for the past seven or eight years, many of the prominent Federalists of former years—men like Otis and Sewall, of Massachusetts, and Griswold and Goodrich, of Connecticut—resuming their seats. Bayard, of Delaware, returned, as did also Harper and Thomas Pinckney, of South Carolina. But from the South came a number of new men of moderate principles, who were not pledged to the system of the late Congress. From the Middle States came a number of anti-administration members. Livingston and Gallatin returned, and likewise Samuel Smith, of Maryland, so that in the face of the approaching Presidential election the Federalists in the House were not likely to have an easy time of it. On the other hand, the Senate still retained its two-thirds majority favoring the harshest measures passed by the preceding Congress. There were some new accessions, notably Samuel Dexter, of Massachusetts; Dayton, formerly Speaker of the House; Gouverneur Morris, of New York; Baldwin, of Georgia; and Charles Pinckney, of South Carolina. Probably the most unique character in either House was John Randolph, of Roanoke—a politician hitherto unknown to fame, but destined, by his eccentric manners and his strangely fascinating style of oratory, to enliven the proceedings of Congress for the next twenty-five years. The House

organized by choosing as Speaker Theodore Sedgwick, of Massachusetts, who had left the Senate that he might resume his seat in the lower House. His opponent, Nathaniel Macon, of North Carolina, received but six votes less.* On December 3, 1799, Adams delivered his annual speech.† In it he spoke of the Fries insurrection; recommended that the judiciary system be revised and amended; spoke of the relations with France, Great Britain and St. Domingo; and concluded by pointing out the wisdom and necessity of persevering “in a system of national defense” as “the means of maintaining our just rights, for,” said he, “remotely as we are placed from the belligerent nations, and desirous as we are, by doing justice to all, to avoid offense to any, nothing short of the power of repelling aggressions will secure to our country a rational prospect of escaping the calamities of war or national degradation.”

The answers were full and by no means deficient in cordiality.‡

A resolution had been introduced by Nicholas on January 1, 1800, for the repeal of those sections of the acts

* Schouler, *United States*, vol. i., pp. 464-467.

† Richardson, *Messages and Papers*, vol. i., pp. 289-292; *Annals of Congress*, 6th Congress, 1st session, pp. 188-190; Benton, *Abridgment*, vol. ii., pp. 400-401. “The speech is quite short, but in dignity and simplicity it holds its rank with all the other public papers of this administration.”—John Adams, *Works*, vol. i., p. 560.

‡ Richardson, *Messages and Papers*, vol. i., pp. 292-296; *Annals of Congress*, 6th Congress, 1st session, pp. 193-196; Benton, *Abridgment of Debates*, vol. ii., pp. 431-432.

of July 16, 1798, and March 3, 1799, which authorized the enlistment of new regiments and the appointment of new generals.* A protracted debate followed, in which John Randolph played a prominent part. He supported the resolution because he thought a standing army unconstitutional, dangerous, costly, and, above all, useless; for the people could not trust the defense of their liberties and rights to "mercenary armies" and to "a handful of ragamuffins." When it became necessary for the citizens to fight, they could and would do so willingly, but they could not stand for having a body of loungers living on the public while there was nothing in the fighting line to be done† Two days after this speech Randolph was subjected to a somewhat humiliating experience at a theatre, where a naval officer made some remarks connected with his speech intended to be overheard by Randolph. The latter immediately wrote Adams regarding it, saying that some punishment should be provided to guard against further occurrences of this sort, and the President referred the letter to the House, who sent it to a committee.‡ The committee examined witnesses and reported that

there was nothing in the affair at the theatre to call for interference by the House on the ground of breach of privilege, and that Randolph had acted improperly in complaining to the President instead of to the House.* Five days were spent in debating this report. In vain did Randolph deny that he had committed a breach of privilege and declare that he had written the President only in his military capacity. The majority had him in a position where it could punish him, and on January 29 the report was adopted by a large majority.† This was considered to be an example of the evils of a standing army and the tyranny of the President. This experience, however, did Randolph some good, for he was more cautious, talked less about ragamuffins and hirelings, and was more amenable to good advice after that.‡

During this session Congress passed few noteworthy acts. In January of 1800 the report of the Secretary of War urging the establishment of a military academy was transmitted to Congress, but led to no definite action. The Committee of Ways and Means took under consideration the state of the finances and reported to the

* *Annals of Congress*, 6th Congress, 1st session, pp. 227-228.

† Adams, *John Randolph*, p. 41. Speech of January 9, *Annals*, pp. 296-300. For the entire debate, see pp. 247-369, 389-404.

‡ Ford's ed. of *Jefferson's Writings*, vol. vii., p. 404. The two letters are in *Annals of Congress*, pp. 372-373.

* The testimony is in *American State Papers, Miscellaneous*, vol. i., pp. 195-202; *Annals*, pp. 377-388.

† McMaster, vol. ii., pp. 459-461. For the debate, see *Annals*, pp. 426-507.

‡ Adams, *John Randolph*, p. 44; Schouler, *United States*, vol. i., pp. 466-467. The act as passed was approved May 14. See *Annals*, pp. 1530-1531.

House. Because there was a prospect of soon settling the differences with France, it was deemed inexpedient to press the measures relating to national defense. Accordingly, a reduction of about \$1,600,000 was made in the estimates of the army and navy departments.* This left about \$3,500,000 to be provided for by loan, which was authorized late in the session. Among other acts were the suspension of commercial intercourse with France and its dependencies; the laying of additional duties on sugar, molasses and wines; provision that the second census take place in August of 1800; a bill for establishing a uniform system of bankruptcy, etc.† The session terminated May 14, and was the last occasion on which Congress assembled at Philadelphia. Writing to Madison on May 12 respecting the session, Jefferson spoke as follows:

"On the whole the federalists have not been able to carry a single strong measure in the lower house [during] the whole session. When they met, it was believed they had a majority of 20; but many of these were new & moderate men & soon saw the true character of the party to which they had been well disposed while at a distance. The tide, too, of public opinion, set so strongly against the federal proceedings, that this melted off their majority, & dismayed the heroes of the party. The Senate alone remained undismayed to

the last. Firm in their purposes, regardless of public opinion, and more disposed to coerce than to court it, not a man of the majority gave way in the least."*

Mr. Adams had already broken with the extreme wing of the Federalists, and the campaign had hardly got under way when he threw a bomb into the Federalist camp. The ill-feeling that had existed for several months between the President and Secretaries Pickering and McHenry had not been allayed. Early in May of 1800 the President had an interview with McHenry, as a result of which the latter was requested to resign his post as Secretary of War. He complied and, to his surprise, on May 6 the resignation was accepted.‡ Adams then wrote to Pickering that he wished to change his constitutional advisers and requested him to withdraw,§ but Pickering refused, whereupon Adams, with scant courtesy, removed him from office May 12.|| The unctuous Wolcott, who had intrigued as treacherously as

* Ford's ed. of *Jefferson's Writings*, vol. vii., pp. 446-447; Tucker, *Life of Jefferson*, vol. ii., p. 68.

† John Adams, *Works*, vol. ix., pp. 51-54; Hamilton's ed. of *Hamilton's Works*, vol. vi., p. 442; Morse, *John Adams*, pp. 313-314.

‡ John Adams, *Works*, vol. ix., pp. 54-55.

§ Mr. Gibbs (vol. ii., pp. 348-359) severely reviews this measure on the part of the President, and condemns it as wholly unjustifiable, so far as the ability, integrity and uprightness of the secretaries are concerned. Mr. C. F. Adams (*Life and Works of John Adams*, vol. i., pp. 566-569) on the other hand, justifies the course pursued by his grandfather, on the ground of McHenry's incompetency, and Colonel Pickering's dishonorable use of his official position for the purpose of counteracting and defeating the plans of the President. See also Morse, *John Adams*, p. 314.

* For a full account of this matter of the finances, the report of the Committee of Ways and Means, etc., see Gibbs, *Administrations of Washington and Adams*, vol. ii., pp. 325-338. See also *American State Papers, Finance*, vol. i., pp. 642-656.

† Schouler, *United States*, vol. i., pp. 468-469. For debates, see *Annals of Congress*, 6th Congress, 1st session; Benton, *Abridgment of Debates*, vol. ii.

either of the others, was not suspected by the President and remained in office until the end of the year, when he retired voluntarily* and was appointed by Adams a circuit judge, with life tenure.† John Marshall took Pickering's place as Secretary of State,‡ and Samuel Dexter was appointed Secretary of War. Stoddert and Charles Lee continued in their positions as Secretary of the Navy and Attorney-General, respectively.||

After Washington's death the dissensions in the Federalist party seemed to be increasing in acerbity and violence, which was particularly true of New York State. There an election of members of the Legislature was about to take place and the parties were nearly equally divided. Hamilton labored indefatigably on the

Federalist side, while Aaron Burr was no less assiduous in behalf of the opposition candidates. The Democratic party was weakened by the family feuds of the Clintons and the Livingstons, and Burr devoted himself to harmonizing the conflicting interests that a solid front might be arrayed against the Federalists. To a considerable degree, he was successful in his efforts.* Believing that the Republicans had the greatest chance of electing their candidates, Hamilton, or as Jay says, "one of the most distinguished and influential Federalists in the United States," proposed that Governor Jay summon the Legislature, the majority of which were Federalists, for the purpose of enacting a law altering the method of choosing the Presidential electors in such a way as "to insure a majority of voters in the United States for the Federal candidate." "The anti-Federalist party," said Hamilton, "is a composition indeed of very incongruous materials, but all tending to mischief; some of them to the overthrow of the government by stripping it of its due energies; other of them by revolutionizing it after the manner of Bonaparte. The government must not be confided to the custody of its enemies, and, although the measure proposed is open to objection, a popular government cannot stand if one

* In speaking of Mr. Hamilton's need of some one "able to betray the movements of the cabinet down to the last moment," C. F. Adams says: "That person was Oliver Wolcott, secretary of the treasury, whose fidelity Mr. Adams never for an instant suspected; who had always so carefully regulated his external deportment, that no one could suppose him likely to become the secret channel through which all the most confidential details of the administration, of which he was a part, should be furnished with the intent to destroy its head. Yet such is the fact which history now most unequivocally discloses. Instead of being too suspicious, as the enemies of his own household chose to describe him, the president had, in the excess of his confidence, retained in his bosom the most subtle and venomous serpent of them all."—John Adams, *Works*, vol. i., p. 570. Compare Mr. Gibbs' remarks, vol. ii., pp. 212-214; Morse, *John Adams*, p. 315.

† John Adams, *Works*, vol. ix., pp. 88, 90, 99, 100.

‡ Magruder, *Life of Marshall*, p. 149.

|| Bassett, *Federalist System*, p. 286; Schouler, *United States*, vol. i., pp. 477-478.

* See Hammond, *History of Political Parties in the State of New York*, vol. i., p. 146 *et seq.*; Parton, *Life and Times of Aaron Burr*, pp. 244-253; Alexander, *Political History of New York*, vol. i., p. 89 *et seq.*

party calls to its aid all the resources which vice can give, and the other, however pressing the emergency, feels itself obliged to confine itself within the ordinary forms of delicacy and decorum." * Jay, however, said that Hamilton was "proposing a measure for party purposes which I think it would not become me to adopt." † It was not adopted, with the result that Hamilton had anticipated. ‡

The outcome of the New York election did not affect the prospects of the Federal party, which at his time was badly disunited. Some wished to drop Mr. Adams entirely and to unite upon General Pinckney or some other strong man, while others determined that the President should, at all hazards, be supported for reelection. Before the close of Congress in May of 1800, the Federalist members held a caucus, at which John Adams and Charles Pinckney were designated as the Federalist candidates — Adams for the Presidency and Pinckney for the Vice-Presidency. A powerful faction of the Federalists, led by Oliver

Wolcott, Pickering and Hamilton had determined to prevent the elevation of Adams to the Presidency for a second term by confidentially stating that he was not fit for the post, that his defects of character rendered it unsafe to reelect him, and that the votes should therefore be given to General Pinckney * Hamilton had already prepared to encompass Adams' defeat. He said: "For my individual part, my mind is made up. I will never more be responsible for him [Adams] by my direct support, even though the consequences should be the election of Jefferson." He added also that while he thought either or both would wreck the government, he preferred Jefferson, since the latter could be fought in the open, while Adams must be indorsed by the party, and it would be necessary to "knife" him in the back. † Mr. C. F. Adams denounces this action as bad faith, and says that "the moment when an active minority determined to adopt a line of conduct marked by indirectness of purpose even to treachery, was the moment when wise and patriotic citizens had reason to foresee for the Federal party that shipwreck must inevitably ensue." ‡

On the other hand, the Republicans were well organized and found little difficulty in agreeing upon their candidates, selecting Thomas Jefferson and

* Lodge's ed. of *Hamilton's Works*, vol. viii., p. 549. Lodge says this proposition is "the one dark blot upon the public career of Hamilton." — *Alexander Hamilton*, p. 227. Parton, however, thinks that this was more due to ignorance and incapacity than moral turpitude (*Life of Thomas Jefferson*, p. 563).

† Lamb, *City of New York*, vol. ii., p. 463; Schouier, *United States*, vol. i., pp. 476-477.

‡ For this letter, see *Life of John Jay*, vol. i., pp. 412-414. See also Roberts, *New York*, vol. ii., pp. 478-479; Pellew, *John Jay*, pp. 330-332; Todd, *The True Aaron Burr*, pp. 15-16; Parton, *Life and Times of Aaron Burr*, pp. 253-255; Alexander, *Political History of New York*, vol. i., pp. 91-93.

* McMaster, vol. ii., pp. 490-491.

† Hamilton's ed. of *Hamilton's Works*, vol. vi., pp. 436, 437, 441, 446; Lodge's ed., vol. viii., p. 552.

‡ John Adams, *Works*, vol. i., p. 576.

Aaron Burr.* Burr had proved so valuable an ally that it was not doubted he would run well, especially in the Middle States.†

In the summer of 1800 the leaders of the independent Federalists made a tour of the country to ascertain the feeling of the voters regarding the

* Parton, *Life and Times of Aaron Burr*, p. 259; Stanwood, *History of Presidential Elections*, pp. 32-33.

† As an instance of the anathema of the pulpit, Parton cites the speeches and pamphlets of Dr. John Mason, of New York. Mason evolved from reading Jefferson's *Notes on Virginia* that Jefferson did not believe in a universal deluge, and a few weeks before the election he published a pamphlet entitled *The Voice of Warning to Christians on the Ensuing Election*. He reviewed the *Notes* and came to the conclusion that Jefferson was "a profane philosopher and an infidel." "Christians!", he exclaimed, "it is thus that a man, whom you are expected to elevate to the chief magistracy, insults yourselves and your Bibles!" It is said that in a prayer this same Mason burst into impassioned supplications: "Send us, if Thou wilt, murrain upon our cattle, a famine upon our land, * * * pestilence to waste our cities; send us, if it please Thee, the sword to bathe itself in the blood of our sons; but spare us, Lord God Most Merciful, spare us that curse,—most dreadful of all curses,—an alliance with Napoleon Bonaparte."—*Life of Thomas Jefferson*, p. 571. In a letter to Dr. Benjamin Rush, of Philadelphia, September 23, Jefferson imputes to the clergy hopes of being able to accomplish a union of church and state. "The returning good sense of the country," he adds, "threatens abortion to their hopes, & they believe that any portion of power confided to me, will be exerted in opposition to their schemes. And they believe rightly; for I have sworn upon the altar of God, eternal hostility against every form of tyranny over the mind of man. But this is all they have to fear from me: & enough too in their opinion & this is the cause of their printing their lying pamphlets against me, forging conversations for me with Mazzei, Bishop Madison, &c., which are absolute falsehoods without a circumstance of truth to rest on."—Ford's ed. *Jefferson's Writings*, vol. vii., pp. 460-461. See also Parton, p. 573.

election. Hamilton toured the Eastern States and returned discouraged, for he found the sentiment among the mass of the people to be favorable to Adams. He reported that the first-class leaders were "right"—meaning opposed to Adams—that the second class were too much disposed to be "wrong"—that is favored Adams—and that he intended to inform them of the principal objections to Adams.* Writing to Wolcott in September, he said: "The facts hitherto known have very partially impaired the confidence of the body of Federalists in Mr. Adams, who, for want of information, are disposed to regard his opponents as factious men."† Bayard made a canvass of the South and found that Jefferson would receive the electoral votes from that section almost without exception.‡ The Middle States were doubtful. But they might just as well have spared themselves the fatigue of these journeys, for the sentiments of the two sections had been ably expressed in connection with the Kentucky and Virginia Resolutions, as previously related.

Meanwhile, on May 15, 1800, being displeased at the result of the party caucus and thirsting for revenge, Pickering suggested to Hamilton "a bold and frank exposure of Adams."

* Hamilton's *Works*, vol. viii., pp. 523, 555, 560. See also Sumner, *Life of Alexander Hamilton*, p. 234; John Adams, *Works*, vol. i., p. 570; Morse, *John Adams*, p. 317.

† Hamilton's *Works*, vol. viii., p. 563.

‡ McMaster, vol. iii., pp. 493-494.

He undertook to furnish the facts for such an exposure, and endeavored, besides, to instigate Cabot and the ultra Federalists of New England to arrange that Adams should be thrown out, regardless of party consequences. While these New England Federalists resented Pickering's removal and would not hold social intercourse with the President, and while they would gladly have seen Adams defeated by any means, they still had no desire to undertake the task themselves, preferring that the first open demonstration should come from some other State. Adams enjoyed wide popularity among New England Federalists, and to provoke his friends might work their own destruction. Furthermore, after praising him so long and palliating his faults to the last, they could not consistently turn now and denounce him, for this would place them in the position of having previously deceived their fellow-citizens. They knew, too, that an open rupture with Adams would result in the defeat of the Federalist party, and they feared the country would be doomed if the Republicans should win. Writing to Cabot, Wolcott said:

"It is with grief and humiliation, but at the same time with perfect confidence, that I declare that no administration of the government under President Adams could be successful. His prejudices are too violent, and his resentments of men of influence are too keen to render it possible that he should please either party; and we all know that he does not possess and cannot command the talents, fortitude, and constancy necessary to the formation of a new party."

And yet the only result of this secret consultation was a confidential dissection of Adams' character, which, though it seemed to satisfy them of the President's unfitness for reëlection, could not help their own cause. Nevertheless they hoped that the scales would soon drop from the eyes of the public, whom they themselves dared not enlighten. As McHenry said in a letter to Wolcott, July 22, 1800:

"Nay, their conduct even now, notwithstanding the consequences full in view should the present chief be re-elected, in most, if not in all of the States, is tremulous, timid, feeble, deceptive and cowardly. They write private letters. To whom? To each other. But they do nothing to give a proper direction to the public mind. They observe, even in their conversation, a discreet circumspection, ill-calculated to diffuse information, or to prepare the mass of the people. They meditate in private. Can good come out of such a system? If the party recover its pristine energy and splendor, shall I ascribe it to such cunning, paltry, indecisive, back-door conduct?"

Again, to foster dissension between Adams and Pinckney and to gain the good will of Pinckney which might be of value should he become President, Pickering, shortly after Congress adjourned, wrote a long epistle in terms abusive of Adams, designating himself as a martyr for his rebuke of Adams' nepotism and his interference to secure to Hamilton the post of second in command of the army. On the other hand, Adams was not backward in denouncing the intrigue of his former advisers, stigmatizing his neighbors involved in the intrigue as the "Essex Junto." *

* Schouler, *United States*, vol. i., pp. 479-481.

Hamilton now seems to have become convinced that Adams could not be undermined in New England and that it would be hardly possible to obtain an equal vote for General Pinckney. Something must be done, or Adams would again become President — a situation which Hamilton and others most earnestly deprecated. He therefore determined to hit back at Adams for his free and unguarded speech. Adams had many times denounced that wing of the Federal party which did not favor his measures as a British faction. In 1792 he wrote a letter to Tench Coxe in which he referred to the Pinckneys and others as being under British influence. This letter was given by Coxe to Duane, who published it in the *Aurora*, and Thomas Pinckney wrote to Adams asking if this were a forgery or a genuine letter. Adams was compelled to admit that the epistle was genuine, but replied in a conciliating tone, saying that, in a fit of peevishness, he had not only unjustly imputed to the two brothers the charge of being under British influence, but also had carelessly included the various distinguished statesmen of South Carolina who bore the name of Pinckney. Adams had also included Hamilton among those he charged with being under British influence. Having been mustered out of the army and not being in any way connected with the government, Hamilton now felt under no constraint in venting his feelings concerning the President. The campaign

attacks upon the “Essex Junto” afforded him a splendid opportunity for the public exposure of Adams which Pickering desired, but which none of the more circumspect conspirators dared to make. On August 1, therefore, Hamilton wrote to Adams demanding that the latter set forth the grounds of his assertions.* Receiving no answer, Hamilton wrote again on October 1 and deliberately pronounced every charge of this nature as “a base, wicked calumny.”† He then resolved upon a further step which had an important effect upon the coming election.‡

Long before writing the first of the above letters, Hamilton had set Wolcott at work gathering evidence of Adams' unfitness for the Presidency, with the object of drawing off from him as many Federalist votes as possible|| and of bringing doubtful electors to unite on Pinckney. But Hamilton's advisers were in a quandary about such a publication. All would go well enough if the scheme should draw votes from Adams without aiding the Republicans. But the attack on Adams might have a different effect. Would it not therefore be better to issue the pamphlet anonymously? Some of Hamilton's better counsellors

* Schouler, vol. i., pp. 482-483; McMaster, vol. ii., p. 496.

† Lodge, *Alexander Hamilton*, p. 230.

‡ For some rather free and far from complimentary remarks upon the second President and his idiosyncrasies, see Garland, *Life of John Randolph*, vol. i., pp. 142-143.

|| Lodge, *Alexander Hamilton*, pp. 232, 234. See also John Adams, *Works*, vol. i., pp. 578-579.

—such as Fisher Ames, George Cabot and Oliver Wolcott* recalled the caucus agreement to vote fairly for both Adams and Pinckney and deprecated what seemed to them a breach of faith.† But Hamilton was accustomed to give, not to receive advice. Accordingly, late in October, shortly before the election was held in the various States, he issued the celebrated *Letter from Alexander Hamilton concerning the Public Conduct and Character of John Adams, Esq., President of the United States*.‡ Gibbs says that his object was to “vindicate himself and his friends, in their political conduct, from unjust reproaches, and to procure a joint support of the second candidate of the party. The writer, notwithstanding a full and candid exposition of his objections to Mr. Adams, and his apprehensions that, under his future auspices, the federal policy might totter and fall, disclaimed all wish to withdraw from him a single vote, or to oppose any obstacle to his election.”|| But in mak-

ing this pamphlet appear as merely a personal justification, Hamilton had undertaken more than he could perform. He devoted but little space to refuting the charge that he or the Pinckneys were under British influence, and then launched into his attack on the President. He went as far back as Revolutionary days to prove that Adams was unsound in his military judgment; and, while admitting that he had made a good Vice-President, Hamilton said that, owing to his egotism, vanity and jealousy, the reverse was true of Adams as President. Hamilton attempted to make much of the President's disregard of his Cabinet advisers in connection with the French negotiations, but dared not affirm that the conspirators had been right and the President entirely wrong. As a matter of fact, Hamilton made out a very weak case, for he showed neither corruption, insanity nor ruinous behavior on the President's part—as it was expected he would—nor could he prove that Adams had treated Washington with actual disrespect. Indeed, the whole letter was a less severe arraignment of the President than had been made in Hamilton's confidential letters.*

This Adams pamphlet was intended

to withhold from the object of his invective, one single vote!”—John Adams, *Works*, vol. i., p. 583. Mr. C. F. Adams bestows a searching examination upon this letter, and the circumstances connected with it; especially the share that Oliver Wolcott had in the matter. See John Adams, *Works*, vol. i., pp. 576-589.

* Schouler, *United States*, vol. i., pp. 483-484. See also Josiah Quincy, *John Q. Adams*, p. 23.

* John Adams, *Works*, vol. i., p. 580.

† Alexander, *Political History of New York*, vol. i., p. 96. See also Morse, *John Adams*, pp. 319-320.

‡ McMaster, vol. ii., pp. 504-505; Lodge's ed. of Hamilton's *Works*, vol. vi., pp. 391-444.

|| *Administrations of Washington and Adams*, vol. ii., p. 429. “So soon as the news of Mr. Hamilton's pamphlet went abroad, men of all parties naturally expected disclosures of the gravest offenses, involving the moral and political integrity of the president. What was their surprise then, to discover, in the course of thirty printed pages, that the proof relied upon to show Mr. Adams to be utterly unfit to be president, were not deemed by the author himself, sufficient to prevent his advising his friends not

to be used chiefly by Hamilton's friends, particularly in the South, but for limited and private circulation even there. In some way, however, Aaron Burr secured a copy of the letter, printed it in the papers, and thus brought the whole subject before the public.* As a political move, Hamilton's action was undoubtedly a blunder and a piece of passionate folly,† for it afforded Burr and the Republicans an opportunity to profit by the discord of their rivals. It greatly invigorated the Republican cause and undoubtedly hastened the undoing of the Federalist party.‡ Certainly the reception accorded the pamphlet was not that Hamilton had hoped. Some thought it went too far, and others that it did not go far enough, while it sadly disappointed those who had expected proof that Adams was unsound in finance and commerce, and that he had endeavored to embroil the country in war with England in order to increase his personal popularity. Even the "Essex Junto" deprecated the appearance of a campaign document which was likely to do their cause more harm than good;|| and

many Federalists thought that Hamilton himself displayed the very vanity and egotism with which he charged the President. "So fluctuating had been their [the Republicans'] confidence in their power to overthrow Mr. Adams that even their sanguine chief had more than once entertained the notion of abandoning opposition to him, and directing the strength of his party to the question of the succession. But this pamphlet did more to invigorate them than all their own efforts." Duane said that "This pamphlet has done more mischief to the parties concerned, than all the labors of the *Aurora*."*

The result of the election became known some time before it was formally and authoritatively announced.† Burr seems to have been the hero of the fight on the Republican side. He detected every Federalist movement and exposed it so adroitly that the Federalists failed to realize from what quarter the unwelcome light fell upon their actions. Both Adams and Jefferson were restricted by their official positions from employing any other means than their pens, but these they plied diligently enough. Many

* Hamilton's *Works*, vol. viii., p. 392; Morse, *John Adams*, pp. 320-321; McMaster, vol. ii., p. 505. See also Sumner, *Life of Alexander Hamilton*, p. 235 *et seq.*; Parton, *Life and Times of Aaron Burr*, pp. 256-257.

† Lodge, *Alexander Hamilton*, pp. 233, 235. Lodge says that Hamilton's action was "simple madness. It was the work of a man crazed with passion and bent on revenge."

‡ McMaster, vol. ii., p. 506.

|| Alexander, *Political History of New York*, vol. i., p. 96 *et seq.*

* John Adams, *Works*, vol. i., p. 588. Madison says that Hamilton's pamphlet "though its recoil has perhaps more deeply wounded the author than the object it was discharged at, has contributed not a little to overthrow the latter, struggling as he before was in the public esteem." —Letter to Jefferson, January 10, 1801. Madison's *Works* (Congress ed.), vol. ii., p. 167. For Adams' answer to this attack see his *Works*, vol. ix., pp. 239-311.

† McMaster, vol. ii., p. 508 *et seq.*

Federalists were so opposed to Jefferson* that they contemplated casting all their influence in favoring Burr for the Presidency,† which, despite Hamilton's warning that Burr was far more dangerous than Jefferson, was very nearly accomplished.‡ Writing to Wolcott, Hamilton said: "There is no doubt that upon every prudent and virtuous calculation, Jefferson is to be preferred. He is by far not so dangerous a man, and he has pretensions to character. As to Burr, there is nothing in his favor.

*The Federalists charged even that Jefferson "had obtained his property by fraud and robbery; that in one instance he had defrauded and robbed a widow and fatherless children of an estate to which he was executor, of ten thousand pounds sterling, by keeping the property and paying them in money at the nominal rate, when it was worth no more than forty to one." Jefferson says he was executor in but two instances and "in one of the cases only were there a widow and children. She was my sister. She maintained and managed the estate in her own hands and no part of it was ever in mine." See Morse, *Thomas Jefferson*, pp. 196-197.

†Todd, *The True Aaron Burr*, p. 17. The number included George Cabot, of Massachusetts, Charles Carroll, of Carrollton, and Secretary Wolcott.

‡Not only did the Federalists attempt to elect Burr, but, when the election of Jefferson seemed assured, several articles appeared in the Connecticut *Courant* inciting the Northern States to a division of the Union, saying among other things: "The northern states can subsist as a nation, as a republic, without any connection with the Southern * * * I shall in future papers consider some of the grave events which will lead to a separation of the United States, * * * endeavor to prove the impossibility of our union for any long period in the future, both from the moral and political habits of the citizens of the United States, and finally examine carefully to see whether we have not already approached the era when they must be divided."—Randall, *Life of Jefferson*, vol. iii., pp. 634-635.

His private character is not defended by his most partial friends. He is bankrupt beyond redemption, except by the plunder of his country. His public principles have no other spring or aim than his own aggrandizement, *per fas et nefas*. If he can, he will certainly disturb our institutions to secure to himself permanent power and with it wealth. He is truly the Catiline of America."* "Every step in his career proves, that he has formed himself upon the model of a Catiline, and he is too cold-blooded and too determined a conspirator ever to change his plans."†

Meanwhile the last session of the sixth Congress had assembled on November 17, 1800, and on February 11,

* Parton, *Life and Times of Aaron Burr*, p. 267; Lamb, *City of New York*, vol. ii., p. 470. See also Todd, *The True Aaron Burr*, pp. 23-25. This was not the first instance when Hamilton had written so disparagingly of Burr that he surely must have been challenged had the contents of the letters become known to Burr. During the Presidential canvass of 1792, he said: "I fear [Burr] is unprincipled both as a public and private man. * * * In fact I take it he is for or against nothing, but as it suits his interest or ambition. He is determined, as I conceive, to make his way to be the head of the popular party and to climb *per fas aut nefas* to the highest honors of the State, and as much higher as circumstances may permit. Embarrassed, as I understand, in his circumstances, with an extravagant family, bold, enterprising and intriguing, I am mistaken if it be not his object to play the game of conspiracy, and I feel it to be a religious duty to oppose his career." Again he wrote to Rufus King: "Mr. Burr's integrity as an individual is not unimpeached, and as a public man, he is one of the worst sort. * * * In a word, if we have an embryo Cæsar in the United States, it is Burr."—See Parton, *Life and Times of Aaron Burr*, pp. 192-193.

† Parton, *Life and Times of Aaron Burr*, p. 268.

1801, the sealed packets containing the notification of the vote of each State were opened by Jefferson as President of the Senate. When all had been opened, it was ascertained that the vote had been cast as follows:

State.	Jefferson and Burr.	Adams and Pinckney.
New Hampshire .....	..	6
Massachusetts .....	..	16
Rhode Island .....	..	4 *
Connecticut .....	..	9
Vermont ..	..	4
New York	12	..
New Jersey .....	..	7
Pennsylvania	8	7
Delaware .....	..	3
Maryland	5	5
Virginia	21	..
Kentucky	4	..
North Carolina	8	4
Tennessee	3	..
South Carolina	8	..
Georgia ..	4	..
Total	73	65
	=	=

As Jefferson and Burr had a clear majority of the total number of votes (138) and as both had received the same number of votes, it became necessary that they be balloted for by the House in order to ascertain which one was to be President.† Though the Federalists had a decided majority in the House, they could not control a majority of the States for the purpose of election. It was known that two of

the Federalists' representatives—one from Georgia and another from Maryland—would not cast their votes in opposition to the expressed desires of their constituents. This gave Georgia to the Republicans, whereas the vote of Maryland was equally divided. In this way the Federalists had a majority of six States—New Hampshire, Massachusetts, Rhode Island, Connecticut, Delaware and South Carolina—and the votes of two others, Vermont and Maryland, were equally divided. They were in a position, therefore, to prevent the election of Jefferson, and—should they decide to favor Burr—to secure Burr's election by detaching some of the Republican States from Jefferson. They thus had an opportunity to strike down the man they considered as the head of those who would disorganize the whole country and throw it into a state of anarchy. The question was, then, should they elect Jefferson, whom they regarded as the life and soul of doctrinaire anti-federalism and anarchic French Revolution Jacobinism? Again the question arose as to whether they should prevent the election of both Jefferson and Burr, compelling a new election by the people in the hope that they themselves might have better luck. Or should they vote for Aaron Burr, the man they had denounced as an unprincipled demagogue whose sole purpose in life was to promote the interests of Aaron Burr? It is not surprising that they hesitated between the alternatives,

* One of the votes of Rhode Island was given to John Jay, of New York, instead of to Pinckney, and the latter therefore received only 64 votes. See Stanwood, *History of Presidential Elections*, p. 40; *Annals of Congress*, 6th Congress, 2d session, pp. 743-744, 1024; Benton, *Abridgment*, vol. ii., pp. 486-487, 531.

† Congress had provided for such contingencies some time before. See Stanwood, *History of Presidential Elections*, pp. 33-36, 41-42.

nor can it be considered strange that the Federalists preferred even the unprincipled and odious Burr to a man who embodied, as they believed, all that was bad in politics. When it became known that the election must be decided by the House, the Federalist newspapers began to discuss the alternatives — whether they would prevent a constitutional election by ballot without choice until March 4 or would elect Burr.

The sentiment seemed to prevail among prominent Federalists that Burr ought to be supported, if for no other reason, as Harrison Gray Otis said, than “to cover the opposition with chagrin and to sow among them the seeds of a morbid division.” Gouverneur Morris’ opinion that “some, indeed most of our eastern friends, are warm in support of Burr,” is corroborated by James A. Bayard, who wrote: “There appears to be a strong inclination in a majority of the Federal party to support Burr. The current has already acquired considerable force and is manifestly increasing.” John Rutledge, Governor of South Carolina, thought “his promotion will be prodigiously afflicting to the Virginia faction, and must disjoint the party. If Mr. B.’s Presidency be productive of evils, it will be very easy to get rid of him. Opposed by the Virginia party, it will be his interest to conciliate the Federalists.” Theodore Sedgwick said that “most of the Federalists are for Burr. It is very evident that the Jacobins

dread this appointment more even than that of General Pinckney. If he be elected by the Federalists against the hearty opposition of the Jacobins, the wounds mutually given and received will probably be incurable. Each will have committed the unpardonable sin. Burr must depend upon good men for his support, and that support he cannot receive, but by a conformity to their views. At first, I confess, I was strongly disposed to give Jefferson the preference, but the more I have reflected, the more have I inclined to the other.”*

But Hamilton had no such idea. He could not forget the sting of the defeat which had been administered to him in the preceding State elections. Though he and Burr were nominal friends† and though he and Jefferson were bitter personal enemies, he believed that the country would be safer with Jefferson‡ as President than with

* Parton, *Life and Times of Aaron Burr*, pp. 267–270, 275. See also Alexander, *Political History of New York*, vol. i., pp. 98–99.

† Parton, *Life and Times of Aaron Burr*, pp. 264, 271.

‡ Writing to Bayard, January 16, 1801, Hamilton said: “Nor is it true that Jefferson is zealous enough to do anything in pursuance of his principles which will contravene his popularity or his interest. He is as likely as any man I know to temporize, to calculate what will be likely to promote his own reputation and advantage; and the probable result of such a temper is the preservation of systems, though originally opposed, which being once established, could not be overturned without danger to the person who did it. To my mind, a true estimate of Mr. Jefferson’s character warrants the expectation of a temporizing rather than of a violent system.”—Hamilton’s *Works*, vol. vi., p. 420. See also Parton, *Life and Times of Aaron Burr*, p. 279 *et seq.*

Burr, and he wrote many letters to his friends in the House entreating them to vote for Jefferson. To Bayard he wrote: "For heaven's sake, my dear sir, exert yourself to the utmost to save our country from so great a calamity." To Sedgwick he said: "I beg of you, as you love your country, your friends, and yourself, to consider dispassionately the opinion you have expressed in favor of Burr." Once more writing to Bayard, he said:

"If the anti-Federalists who prevailed in the election are left to take their own man, they remain responsible, and the Federalists remain free, united and without stain, in a situation to resist with effect pernicious measures. If the Federalists substitute Burr, they adopt him, and become answerable for him. Whatever may be the theory of the case abroad and at home, Mr. Burr must become, in fact, the man of our party; and if he acts ill, we must share in the blame and disgrace. By adopting him, we do all we can to reconcile the minds of Federalists to him, and we prepare them for the effectual operation of his acts. He will, doubtless, gain many of them; and the Federalists will become a disorganized and contemptible party. Can there be any serious question between the policy of leaving the anti-Federalists to be answerable for the elevation of an objectionable man, and that of adopting him ourselves, and becoming answerable for a man who, on all hands, is acknowledged to be a complete Catiline? 'Tis enough to state the question to indicate the answer, if reason, not passion, presides in the decision."

Again he said: "If the party shall, by supporting Mr. Burr as president, adopt him as their official chief I shall be obliged to consider myself an isolated man. It will be impossible for me to reconcile with my notions of honor or of policy the continuing to

be of a party which will have disgraced itself and the country."* Hamilton exerted all his influence with Bayard, who, as the single representative of Delaware, could cast the vote of the state for Jefferson, which, together with the votes that Jefferson was sure to receive from the Republican States, would assure to him the Presidency.† The balloting began on February 11, and on the first ballot Jefferson received the votes of New York, New Jersey, Pennsylvania, Virginia, North Carolina, Georgia, Tennessee and Kentucky—eight States (50 votes)—and Burr received the votes of New Hampshire, Massachusetts, Rhode Island, Connecticut, Delaware and South Carolina—six states (44 votes)—while the 2 votes of Vermont and the 8 of Maryland were divided.‡ Day after day the balloting continued, with no change in the result until the 17th. One hundred six members were present, of whom fifty-

* Lodge's ed. of Hamilton's *Works*, vol. vi., pp. 573, 581, 584, 587. See also Von Holst, *Constitutional and Political History*, vol. i., pp. 172-173, and Hamilton's letters quoted in Parton, *Life and Times of Aaron Burr*, p. 271 et seq.

† Others regarded Burr in a very unfavorable light. Writing to Hamilton, Sedgwick said: "As to the other candidate [Burr], there is no disagreement as to his character. He is ambitious, selfish, profligate. His ambition is of the worst kind; it is mere love of power, regardless of fame, but as its instrument; his selfishness excludes all social affections; and his profligacy unrestrained by any moral sentiment, and defying all decency. This is agreed."—Hamilton's *Works*, vol. vi., pp. 512, 513.

‡ McMaster, vol. ii., pp. 523-524; Parton, *Life and Times of Aaron Burr*, p. 287; Stanwood, *History of Presidential Elections*, p. 43.

one voted for Jefferson. Some of them were infirm, or indisposed, some were accommodated with beds or couches, and one member was so seriously ill as to be attended by his wife.*

The excitement was considerably increased by rumors that there were intrigues and bargains between the members and candidates.† On December 15, 1800, Jefferson wrote to Burr as follows: "Several of the high-flying Federalists have expressed their determination * * * to prevent a choice by the House of Representatives * * * and let the government devolve on a President of the Senate"‡ which threat threw "great dismay and gloom on the Republican gentlemen here, and exultation in the Federalists, who openly declare they * * * will name a President of the Senate *pro tem.* by

* Parton, *Life and Times of Aaron Burr*, p. 287; McMaster, vol. ii., pp. 523-524; Schouler, *United States*, vol. i., p. 499.

† It was asserted also that public records had been destroyed by the Federalists by means of two fires which had occurred about this time. In the first, the office of the Secretary of War was destroyed and many documents of great importance perished; in the other, the treasury offices suffered and some records were lost. The *Aurora*, with the usual fairness of party papers, asserted that they were *not* accidental, and that it was for reasons best known to the persons concerned, who found the preservation of certain papers and accounts inconvenient, that so expensive and round-about a way of getting rid of them was devised. See McMaster, vol. ii., pp. 517-519; Schouler, *United States*, vol. i., p. 492.

‡ Ford's ed. of *Jefferson's Writings*, vol. vii., p. 467. See also Parton, *Life and Times of Aaron Burr*, p. 265.

what they say would only be a *stretch* of the Constitution.'"*

On the last day of December Jefferson wrote to Tench Coxe:

"We do not see what is to be the end of the present difficulty. The Federalists * * * propose to prevent an election in Congress, and to transfer the government by an act to the C[hief] J[ustice] (Jay) or Secretary of State [Marshall], or to let it devolve on the Pres. *pro tem* of the Senate, till next December, which gives them another year's predominance and the chances of future events. The Republicans propose to press forward to an election. If they fail in this, a concert between the two higher candidates may prevent the dissolution of the government and danger of anarchy, by an operation, bungling indeed & imperfect, but better than letting the Legislature take the nomination of the Executive entirely from the people."†

Writing to Monroe, February 15, 1801, he says:

"If they could have been permitted to pass a law for putting the government into the hands of an officer, they would certainly have prevented an election. But we thought it best to declare, openly and firmly, one & all, that the day such an act passed, the middle States would arm, & that no such usurpation, even for a single day, should be submitted to. This first shook them; and they were completely alarmed at the resource for which we declared, to wit, a convention to reorganize the government & to amend it. The very word convention gives them the horrors, as in the present democratical spirit of America, they fear they should lose some of the favorite morsels of the Constitution."‡

* See his letter to Madison December 19, Ford's ed. of *Jefferson's Writings*, vol. vii., p. 470. See also the entry of April 15, 1806, in the *Anas*, Ford's ed. of *Jefferson's Writings*, vol. i., p. 314.

† Ford's ed. of *Jefferson's Writings*, vol. vii., pp. 474-475; Morse, *Thomas Jefferson*, pp. 200-201.

‡ Ford's ed. of *Jefferson's Writings*, vol. vii., p. 491; Morse, pp. 202-203; Parton, *Life and Times of Aaron Burr*, p. 290. After the crisis had passed Jefferson said: "I have been above all things solaced by the prospect which opened on us in the

The conviction evidently prevailed among the Federalists that the Republicans would under no circumstances be satisfied either with an interregnum or with the election of Burr, for on January 9 James Gunn, a Federalist Senator from Georgia, wrote to Hamilton as follows:

"On the subject of choosing a president some revolutionary opinions are gaining ground, and the Jacobins are determined to resist the election of Burr at every hazard. * * * I am persuaded that the Democrats have taken their ground with the fixed resolution to destroy the government rather than yield their point."*

There were four Federalists in the House — James A. Bayard, of Delaware, George Baer and William Craik, of Maryland, and Lewis R. Morris, of Vermont — any one of whom could have decided the election. These men were resolved not to risk the consequences of preventing an election, and, when it became certain that Burr could not be elected, they determined to allow the election of Jefferson. Federalist writers assert that terms were made with Jefferson before the Federalists would vote for him, and that, in the hope of obtaining "terms of capitulation," Bayard was deputed to declare their purpose "upon the

event of a non-election of a President, in which case the federal government would have been in the situation of a clock or watch run down. There was no idea of force, nor of any occasion for it. A convention, invited by the Republican members of Congress, with the virtual President and Vice-President, would have been on the ground in eight weeks, would have repaired the Constitution where it was defective, and wound it up again."—Morse, pp. 201-202.

*Hamilton's *Works*, vol. vi., p. 509; Alexander, *Political History of New York*, vol. i., p. 102.

best terms that could be obtained." In February Bayard interviewed Samuel Smith, a prominent Republican from Maryland, and in this interview stated that the three States — Delaware, Maryland, and Vermont — would withdraw their opposition to Jefferson, if certain points in the future administration could be arranged. Bayard said these points were: "First, [provision for] the public credit; secondly, [means for] the maintenance of the naval system; and thirdly, [a guarantee] that subordinate officers, employed only in the execution of details established by law, shall not be removed from office on the ground of their political character nor without complaint against their conduct." On the next day Smith informed Bayard that he had consulted with Jefferson regarding the matter and was authorized to say that the points mentioned by Bayard corresponded with his (Jefferson's) views and intentions, and that Bayard and his friends "might confide in the result."*

Having obtained what he regarded as a definite promise, Bayard and his companions resolved to allow the voting to terminate by allotting the Presidency to Jefferson and the Vice-Presidency to Burr.† Jefferson him-

* Davis, *Life of Burr*, vol. ii., pp. 130, 132. See also Parton, *Life and Times of Aaron Burr*, pp. 290-291.

† See Tucker, *Life of Jefferson*, vol. ii., p. 81. For Mr. Madison's letter to the *National Gazette* in February, 1831, on the subject of the pledges or promises made by Jefferson to Bayard, see the

self said, however (February 15, 1801): "I have declared to them unequivocally that I would not receive the government on capitulation, that I would not go into it with my hands tied." And it remained a fact that he did not do so, for he was not a man who could have been induced to acquiesce in such a transaction.*

On the 17th another ballot — the thirty-fifth — was taken, with the result repeatedly reached before.† Jefferson was there restless and eager, and Adams excited and chagrined and uneasily awaiting the settlement of the question which, however it might terminate, could work him no good. An hour later, however, the thirty-sixth ballot was taken, and one member from Vermont and four from Maryland declined to vote, an action which gave to Jefferson the votes of those two States and made him President. Delaware and South Carolina cast blank ballots. Thus was accomplished what Jefferson was

pleased to term the "Republican Revolution of 1801."*

Meanwhile little in the way of legislation had been accomplished by Congress, but some of the bills and debates were of great importance. A bill to amend the Constitution as to choosing Presidential electors and representatives was introduced. It was thought that the methods employed might be simplified and improved by being made uniform in the various States. The amendments offered provided that after March 3, 1801, the States should be divided into as many districts as there were electors; that each district should elect one; and that all Congressmen elected to serve after March 3, 1803, should be elected after the same manner.‡ These amendments were referred to a committee, which reported against amending the Constitution in the man-

same volume, pp. 510-515. See also Madison's *Works* (Congress ed.), vol. iv., pp. 151-158; McMaster, vol. ii., pp. 524-526; Watson, *Life and Times of Thomas Jefferson*, pp. 394-397.

* Morse, *Thomas Jefferson*, p. 206. See also Ford's ed. of *Jefferson's Writings*, vol. i., pp. 311-314, vol. vii., p. 491, vol. ix., p. 297.

† Writing to Hamilton, March 8, Bayard said: "The means existed of electing Burr, but this required his coöperation. By deceiving one man (a great blockhead) and tempting two (not incorruptible) he might have secured a majority of the States. He will never have another chance of being President of the United States; and the little use he has made of the one which has occurred, gives me but a humble opinion of the talents of an unprincipled man."—Parton, *Life and Times of Aaron Burr*, pp. 293-294.

* For the balloting in full with the names of members, etc., see *Annals of Congress*, 6th Congress, 2d session, pp. 1024-1031; Benton, *Abridgment of Debates*, vol. ii., pp. 533-534. See also A. D. Morse, *Causes and Consequences of the Party Revolution of 1800*, in *Report of the American Historical Association for 1894*, p. 531; A. D. Morse, *The Politics of John Adams*, in *American Historical Review*, vol. iv., p. 292; *South Carolina in the Presidential Election of 1800*, in *ibid.*, vol. iv., p. 111. An attack on Jefferson's religious views was made by P. Linn, in his *Serious Considerations on the Election of a President* (New York, 1800), which was answered by DeWitt Clinton, in his *Vindication of Thomas Jefferson against the Charges*. The reflections of Jefferson contained in his *Anas* were answered by R. H. and J. A. Bayard in *Documents Relating to the Presidential Election of 1801* (Philadelphia, 1831), and in *Remarks in the Senate by J. A. Bayard* (Washington, 1855).

‡ *Annals of Congress*, 6th Congress, 2d session, p. 785.

ner proposed, fearing that where so many voting places should be created a greater opportunity for fraud and corruption would exist than under the existing system,* and also that if the poll list should be given to some officer to be added in order to ascertain the will of the people, a chance would be given for alteration, suppression of returns, and for the exclusion of the votes of those actually entitled to vote. Congress adopted the committee's report without debate.†

A debate arose also over the attempt of the Federalists to continue the Sedition Law, which would expire by limitation on March 3 of that year. The testimony in the various cases previously related was quoted by both sides to prove their contentions, with scarcely a new argument being adduced either for or against the bill. When on February 21 the Speaker asked if the bill should be engrossed for a third reading, the vote was in the negative (53 to 49), and the famous law thus expired at midnight on March 3.‡

The only other bill of importance was the act "for the more convenient organization of the courts of the United States," which became law

February 18, 1801.* It was evident at the time that some reform of the judiciary was necessary, for the business of the courts had increased beyond the power of the existing officers to attend to it. The debate on this bill showed that the Republicans and Federalists were agreed on the principle and necessity of some changes. By the act as passed, the judges of the Supreme Court were relieved of the duties of circuit judges and constituted a special court of appeal and error. The Union was divided into six circuits, in five of which three judges each were appointed to perform the duties of which the Supreme Court judges were relieved. For the sixth circuit but one judge was appointed, who, with two of the district judges then in office, was to constitute a circuit court. Had not the design of this act been so apparent, there would probably have been less resistance to the act. The minute the act became law, Adams seized the opportunity to fill up the new offices with Federalists,† even though he knew that his own term of office would expire the third of March following and that his successor would be a Republican. Out of this action arose many of the most bitter attacks upon Adams' adminis-

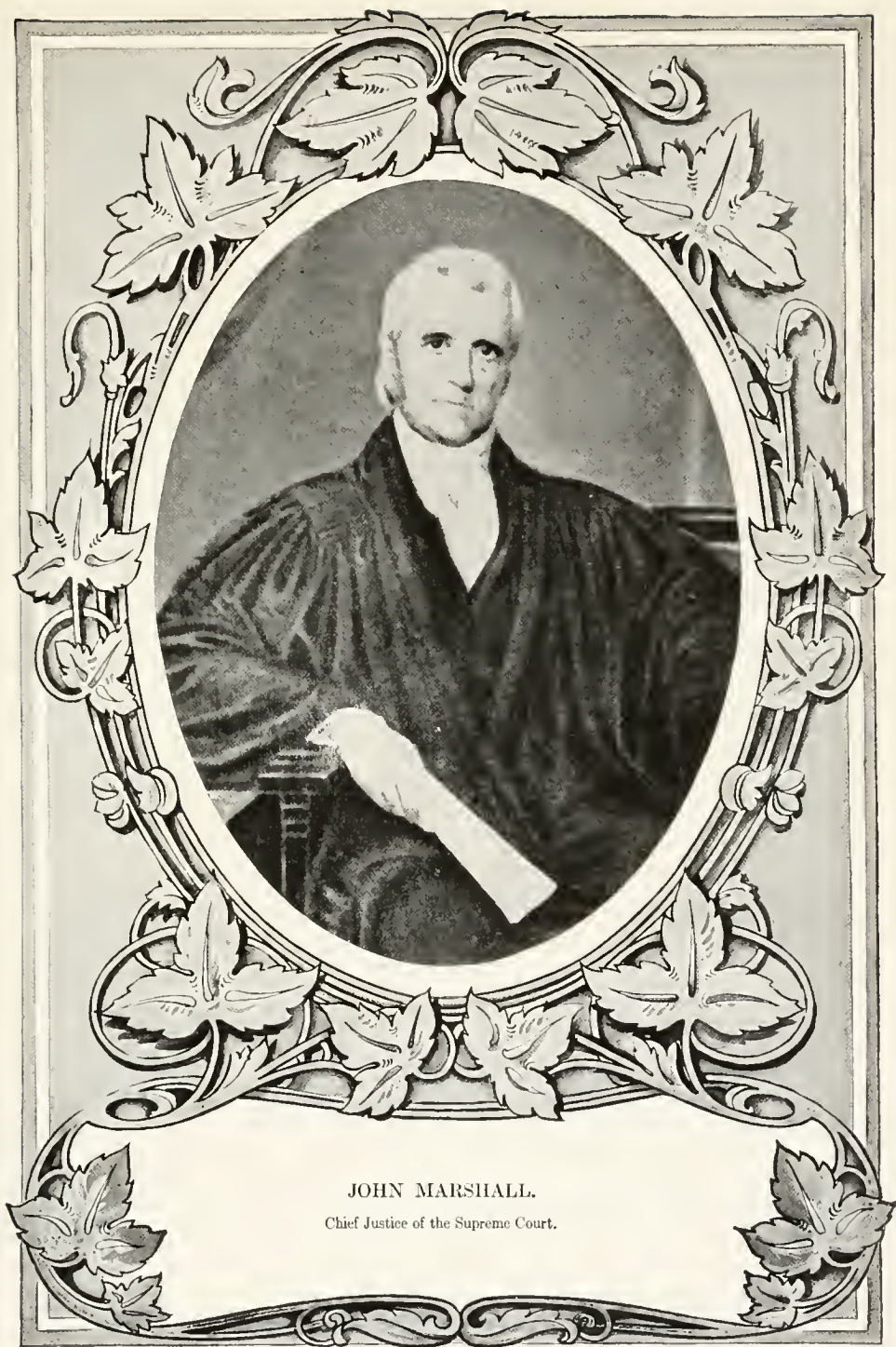
* See Madison's letter to Jefferson, *Madison's Works* (Congress ed.), vol. ii., p. 157.

† For the report, see *Annals of Congress*, 6th Congress, 2d session, pp. 941-946. See also McMaster, vol. ii., pp. 529-530.

‡ Schouler, *United States*, vol. i., p. 500; McMaster, vol. ii., pp. 530-532. For the debate, see *Annals of Congress*, 6th Congress, 2d session, pp. 916-939, 946-975, 1038-1039, 1047-1050.

* For the debate on this subject, see *Annals of Congress*, 6th Congress, 2d session; for the text, *ibid.*, pp. 1534-1549.

† Who were nicknamed the "Duke of Braintree's Midnight Judges." See Max Farrand, *The Judiciary Act of 1801*, in *American Historical Review*, vol. v., p. 682.



JOHN MARSHALL.
Chief Justice of the Supreme Court.

tration, and probably no other act was more bitterly resented by Jefferson.*

Owing to ill health, Justice Ellsworth decided to remain in France and resigned the chief justiceship of the Supreme Court. President Adams offered the vacant post to Governor Jay, of New York, who declined. The post was then tendered to John Marshall, who accepted and on January 27, 1801, was appointed Chief Justice.† On this matter, Mr. C. F. Adams says:

"These appointments excited dissatisfaction on both sides. The ultra Federalists murmured at the nomination of Jay as useless, and complained that Patterson had been overlooked in order to reward a favorite; the opposition, that the strongest opponent of their chief in Virginia had been set as a check over him. But looking back upon the events of the first half of this century,

* Gouverneur Morris had heartily championed this measure and in a letter stated his reasons for so doing. "The new judiciary bill may have, and doubtless has, many little faults, but it answers the double purpose of bringing justice near to men's doors, and of giving additional fibre to the root of government. You must not, my friend, judge of other states by your own. Depend on it, that in some parts of this Union, justice cannot be obtained in the state courts. * * * That the leaders of the Federal party may use this opportunity to provide for friends and adherents, is, I think, probable; and if they were my enemies, I should blame them for it. Whether I should do the same thing myself is another question. * * * They are about to experience a heavy gale of adverse wind; can they be blamed for casting many anchors to hold their ship through the storm?" As Mr. Roosevelt says, they most assuredly should be blamed for casting this particular kind of anchor, for it was a gross outrage to "provide for friends and adherents" in such a manner. See Roosevelt, *Gouverneur Morris*, pp. 332-333.

† John Adams, *Works*, vol. ix., p. 96; Schouler, *United States*, vol. i., pp. 491-492; Magruder, *Life of Marshall*, p. 155 *et seq.*; Thayer, *Life of Marshall*, p. 38.

and upon the combination of qualities requisite to fill that most responsible and difficult post in such a manner as to consolidate instead of weakening the Union, it is scarcely possible for the most prejudiced man to deny, that the selection by John Adams of John Marshall to be chief justice of the Supreme Court of the United States, was, for its political consequences, second in importance only to that virtually made by the same individual, twenty-five years earlier, of George Washington as commander-in-chief of their armies." *

After Jefferson and Burr had been elected by Congress, Adams had before him for the balance of his term, what has been termed little better than a "dreary pageant." His power was virtually gone and little attention was paid to his actions. The last few weeks of his administration were passed in comparative solitude and were of little interest. Early on the morning of his last day in office, Adams abruptly departed for home,† unwilling or unable to witness the triumph of his successful rival. Mr. C. F. Adams says:

"His presidency had been one long and severe trial, in the course of which it was his lot to have his firmness and independence of spirit put to the test for the fourth time in his career, under

* John Adams, *Works*, vol. i., p. 597. For a review of Marshall's work, see the lecture before the University of Michigan by Henry Hitchcock, *Constitutional Development in the United States as Influenced by Chief-Justice Marshall*, reprinted in Thomas M. Cooley, *Constitutional History of the United States as Seen in the Development of American Law*, pp. 55-120.

† Bassett, *Federalist System*, p. 295. Morse says that C. F. Adams tries to throw a cloak of fine language over this act of childish spite and folly, but to no purpose. "It was the worst possible manifestation of all those petty faults which formed such vexatious blemishes in Adams' singularly compounded character."—*John Adams*, p. 322.

circumstances more appalling than ever before. For the first time his own popularity sunk completely under the shock. He retired disgraced in the popular estimation, and his name became a by-word of odium for many years. But he had fully redeemed the pledge into which he had entered with himself at the commencement of his career, to 'act a fearless, intrepid, undaunted part,' though not forgetting 'likewise to act a prudent, cautious, and considerate part.' And never was a union of these qualities more exemplified than during this administration, in the course of which his inflexible courage had saved the neutral policy, and had removed the obstacles which threatened the prosperity of the nation at the moment that he took the helm."*

Gibbs, on the other hand, writing with a strong Federalist bias, is rather severe on what he terms the "insane jealousy and suspiciousness, the morbid irritability, the egregious vanity and egotism, the obstinacy and vacillation," of John Adams, who he says, "had the doubtful satisfaction of gratifying his revenge upon Hamilton at the cost of his own ruin and that of those who supported him."†

In speaking of the work of the Federalists in general during their management of governmental affairs, Gibbs writes as follows:

"With the exception of the errors of Mr. Adams, an exception springing from an abandonment of federal policy, the first twelve years of our con-

stitutional government deserves, and from an impartial posterity will receive, the admiration and respect of our country. In those days there were giants in the land. Dignified and elevated as was the character of Washington, pre-eminent as he stood amongst the great and illustrious personages of history, there were around him and with him, upon the stage of public action, others, who at any time would have been, who even then were, conspicuous as monuments amidst their race; men who are found only in revolutions: who, in times of fat and prosperous security, remain inert and obscure; who appear only with the storms of state; whose ardor and patriotism are roused in proportion to the danger; whose self-reliance increases with peril, and whose resources are fertile in the same degree that they are taxed. Such were the great representatives of the federal party; the men whose names are household words, examples for the imitation of those that come after. Blot those names from our records, and what indeed would remain!

"The tone of their government was in accordance with the character of its administrators: they had considered official station, not as a reward of partisanship, but as a trust confided by the nation to those who had marked themselves worthy of the trust; they had inculcated maxims of reverence for the laws as the true loyalty of republicans; their foreign policy was distinguished by a pure and undeviating love of country, their domestic, alike by ability, integrity, and foresight. Firm, prudent, and honest, they indulged in no levity of resentment to other nations, nor wavered at the apprehension of danger from them. With the single object of the public good, they never hesitated to incur individual odium or misrepresentation. Their power was, however, taken from them. The confidence of the people, shaken less by open assaults than by secret undermining, was withdrawn, and the government passed into the hands of its early and steadfast opponents. Then came a new race into the management of affairs."*

* John Adams, *Works*, vol. i., pp. 597-598.

† See, however, Schouler's opinion, *United States*, vol. i., p. 505 *et seq.*

* Gibbs, *Administrations of Washington and Adams*, vol. ii., pp. 513-514.

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SECTION VIII

